



# Journal of the Senate

Number 16

Monday, March 9, 1992

## CALL TO ORDER

The Senate was called to order by the President at 9:30 a.m. A quorum present—34:

Madam President	Davis	Kiser	Thomas
Bankhead	Diaz-Balart	Kurth	Thurman
Beard	Dudley	Langley	Walker
Bruner	Forman	Malchon	Weinstein
Burt	Girardeau	McKay	Weinstock
Casas	Grant	Myers	Wexler
Childers	Grizzle	Plummer	Yancey
Crotty	Jenne	Scott	
Dantzler	Johnson	Souto	

Excused: Senator Meek; Senator Jennings until 2 p.m.

## PRAYER

The following prayer was offered by the Rev. Edward Gaines, Sr., Pastor, St. Paul Missionary Baptist Church and St. John Missionary Baptist Church, Tallahassee:

Eternal God, our Father, we thank you for this privilege that when we awakened this morning we were able to see the bright sunshine. Our Father, we thank you for allowing us the privilege to meet again here in this Chamber. We pray, our heavenly Father, that you would be with us and stand by us. Bless us, O God, in this great State of Florida.

O God, we pray that you would give your people a vision—a vision that would lead us out of the darkness into a marvelous light. O God, we pray that you would give these senators a vision that would take some of our people out of the streets and put them in some type of shelter, O God, that will be suitable for living and, O God, we pray that you would bless us in this society in which we live when poverty is raging this country.

Our Father, we pray that you just give us a vision because without a vision people will perish. O God, we ask you to bless us and give us that love that binds our hearts, one with another. We pray that you would let your spirit dwell here and guide us through our daily work and Father, when we have finished the work that thou has given us to do, we pray that you will receive our souls in your kingdom. In Jesus' name we pray and for his sake. Amen.

## PLEDGE

Senator Thurman led the Senate in the pledge of allegiance to the flag of the United States of America.

## SENATOR CHILDERS PRESIDING

### RECOGNITION OF PRESIDENT AND PRESIDENT PRO TEMPORE

Senator Childers introduced the following guests of Senator Margolis: Rose Liedman, mother of the President; Steve Liedman, brother of the President; Ira Margolis and Edward Margolis, sons of the President; Max Gomez, Richie Perez and Cindy Schilling, friends of the family; and Dr. Bruce Johnson, father of the portrait artist, Patricia Johnson.

On motion by Senator Jenne, a committee consisting of Senators Weinstock, Davis and Casas escorted President Margolis to the rostrum.

Senator Childers presented the President for remarks from the rostrum.

On motion by Senator Dantzler, a committee consisting of Senators Jenne, Scott and Kurth escorted President Pro Tempore and Mrs. Gardner to the rostrum.

Senator Childers presented the President Pro Tempore for remarks from the rostrum.

Gifts were presented to the two officers by members of the Senate in the form of a scholarship to Florida International University in the name of the President; and a donation to the Florida Division of Blind Services in the name of the President Pro Tempore.

The official portrait of President Margolis was unveiled and presented to the Senate.

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Thomas, by two-thirds vote **CS for HB 2439** was withdrawn from the Committees on Transportation; Finance, Taxation and Claims; and Appropriations; the rules were waived and by two-thirds vote placed on the Special Order Calendar before **CS for SM 8**.

On motion by Senator Jenne, by two-thirds vote **CS for CS for SB's 2186 and 2384** was withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Thomas, by two-thirds vote **CS for SB 980** and **SB 942** were withdrawn from the Committee on Governmental Operations; **CS for SB 2024** was withdrawn from the Committee on Commerce; **HM 2113** was withdrawn from the Committee on Rules and Calendar; and **CS for CS for SB's 2186 and 2384** was withdrawn from the Committee on Professional Regulation.

On motions by Senator Gardner, by two-thirds vote **Senate Bills 1240, 2270, 1588, 2040, 824, 1656, 334, CS for CS for SB 620, CS for SB 1018, CS for SB's 432 and 634, CS for SB 2318, CS for SB 1660, CS for SB 1992, CS for SB 2326, CS for SB 1846, CS for SB 2010, CS for SB 2332 and CS for SB 1352** were withdrawn from the Committee on Appropriations.

On motion by Senator Gardner, by two-thirds vote **CS for SB 1564** was removed from the calendar and referred to the Committee on Appropriations.

On motions by Senator Jenne, by two-thirds vote **SB 1130, CS for SB 2358 and SJR 1776** were withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Kurth, by two-thirds vote **Senate Bills 2422, 1956 and 1966** were withdrawn from the committees of reference and further consideration.

On motions by Senator Grant, by two-thirds vote **SB 318** was withdrawn from the committees of reference and further consideration.

On motions by Senator Malchon, by two-thirds vote **Senate Bills 136, 138, 140, 388, 390, 430, 804, 1978 and 2126** were withdrawn from the committees of reference and further consideration.

## MOTIONS

On motion by Senator Malchon, the rules were waived and **SB 1824**, which passed March 5, was ordered immediately certified to the House.

On motion by Senator Childers, the rules were waived and **SB 896**, which passed March 5, was ordered immediately certified to the House.

On motions by Senator Gardner, the rules were waived and the Committee on Appropriations was granted permission to consider **SJR 766** and **SB 924** this day.

On motion by Senator Wexler, the rules were waived and CS for SB 1766, which passed March 5, was ordered immediately certified to the House.

## MATTERS ON RECONSIDERATION

The motion by Senator Childers that the Senate reconsider the vote by which—

**CS for SB 262**—A bill to be entitled An act relating to comprehensive planning; amending s. 163.3184, F.S.; prescribing authority of local governing body to readopt density requirements of comprehensive plan or plan amendment not in compliance with ss. 163.3161-163.3215, F.S.; prohibiting application of sanctions against a local government readopting such a plan or plan amendment; providing an effective date.

—failed to pass March 5 was taken up. The motion was adopted. The vote was:

Yeas—18      Nays—16

## POINT OF ORDER

Senator Johnson raised a point of order that pursuant to Rule 4.8 the bill as amended should be referred to the Committee on Appropriations.

## RULING ON POINT OF ORDER

On recommendation of Senator Thomas, Chairman of the Committee on Rules and Calendar, the President ruled the point not well taken.

Senator Grizzle moved the following amendments which were adopted by two-thirds vote:

**Amendment 5**—Strike everything after the enacting clause and insert:

Section 1. Subsection (11) is added to section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(11)(a) *The Legislature recognizes the need for innovative planning and development strategies which will address the anticipated demands of continued urbanization of Florida's coastal and other environmentally sensitive areas, and which will accommodate the development of less populated regions of the state which seek economic development and which have suitable land and water resources to accommodate growth in an environmentally acceptable manner. The Legislature further recognizes the substantial advantages of innovative approaches to development which may better serve to protect environmentally sensitive areas, maintain the economic viability of agricultural and other predominantly rural land uses, and provide for the cost-efficient delivery of public facilities and services.*

(b) *It is the intent of the Legislature that the local government comprehensive plans and plan amendments adopted pursuant to the provisions of this part provide for a planning process which allows for land use efficiencies within existing urban areas and which also allows for the conversion of rural lands to other uses, where appropriate and consistent with the other provisions of this part and the affected comprehensive plans, through the application of innovative and flexible planning and development strategies and creative land use planning techniques, which may include, but need not be limited to, urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions, mixed-use development, and sector planning.*

(c) *It is the further intent of the Legislature that local government comprehensive plans and implementing land development regulations shall provide strategies which maximize the use of existing facilities and services through redevelopment, urban infill development, and other strategies for urban revitalization.*

(d) *The implementation of this subsection shall be subject to the provisions of this chapter, chapters 186 and 187, and applicable agency rules.*

(e) *The department shall implement the provisions of this subsection by rule. The department shall draft and formally propose the rule within 90 days after the effective date of this act.*

Section 2. This act shall take effect upon becoming a law.

**Amendment 6**—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to local government planning and cooperation; amending s. 163.3177, F.S.; providing legislative intent regarding innovative planning and development strategies; providing for implementation; providing for rulemaking; providing an effective date.

Senator McKay moved that the Senate reconsider the vote by which **Amendments 5 and 6** were adopted. The motion failed.

On motion by Senator Langley, further consideration of **CS for SB 262** as amended was deferred.

## SPECIAL ORDER

**CS for SB 610**—A bill to be entitled An act relating to hazardous waste; creating the Underground Injection Study Commission in the Department of Environmental Regulation; providing for membership, duties, staffing, and operation of the commission; requiring a report; providing for the dissolution of the commission; providing an effective date.

—was read the second time by title.

Senator Forman moved the following amendment which was adopted:

**Amendment 1 (with Title Amendment)**—Strike everything after the enacting clause and insert:

Section 1. Subsection (4) is added to section 403.7222, Florida Statutes, to read:

403.7222 Prohibition of hazardous waste landfills.—

(4)(a) *There is hereby created within the Department of Environmental Regulation the Underground Injection Study Commission consisting of 15 members: two members of the House of Representatives, appointed by the Speaker of the House; two members of the Senate, appointed by the President of the Senate; and 11 members appointed by the Governor, to include two representatives of the Florida Chemical Industry Council, one representative of the Florida League of Cities, one representative of the Florida Association of Counties, two representatives of environmental organizations, the Secretary of Environmental Regulation or his designee, the administrator of the United States Geological Survey or his designee, one representative of the Florida Engineering Society, and one hydrogeologist and one chemist, each of whom may not be employed by or affiliated with the chemical industry, any city, county, or environmental organization, the Department of Environmental Regulation, or the United States Geological Survey. A chairperson shall be elected by majority vote of the members of the commission. Members of the commission shall serve without compensation, but shall be entitled to receive per diem and reimbursement for expenses as provided by s. 112.061.*

(b) *The commission shall meet within 60 days after the effective date of this act to review the existing practice of underground injection in the state and shall advise the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, the House Minority Leader, and the Secretary of Environmental Regulation on all of the following:*

- 1. The hydrogeology of the state and those specific areas within the state where underground injection currently is practiced.*
- 2. The nature of fluids that currently are disposed of in the state by means of underground injection.*
- 3. The potential for injected fluids to migrate out of the intended injection zone.*
- 4. The potential for harm to the drinking water resources of the state if injected fluid migrates out of the intended injection zone.*
- 5. The extent, scope, and adequacy of existing rules governing the location, construction, operation, maintenance, closure, and permitting of injection wells in the state.*
- 6. The technological and financial feasibility of alternative methods of disposal, other than underground injection.*
- 7. Whether there exists a positive correlation between waste disposal injection wells and their respective locations in minority communities.*

(c) *The commission shall make recommendations to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, the House Minority Leader, and the Secretary of Environmental Regulation for further regulation of or legislation on the practice of underground injection in the state, as necessary, to ensure that underground sources of drinking water are adequately protected for the future. The commission shall, by September 1, 1993, submit a report to the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, the House Minority Leader, and the Secretary of Environmental Regulation of its findings, together with specific recommendations.*

(d) *The sum of \$104,477 is appropriated from the Water Quality Assurance Trust Fund for two Environmental Specialist III and one Secretary Specialist positions to serve as staff for the commission.*

(e) *Appointments to the commission shall be made as soon as possible after the effective date of this act but in no event later than July 1, 1992. The term of each appointment shall be for the life of the commission. The Speaker of the House of Representatives may at any time fill a vacancy for the unexpired term of an appointed member of the House of Representatives; the President of the Senate may at any time fill a vacancy for the unexpired term of an appointed member of the Senate; and the Governor may at any time fill a vacancy for the unexpired term of any of his appointees.*

(f) *This subsection is repealed on July 1, 1994, and the Underground Injection Study Commission is abolished on that date.*

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to underground injection; amending s. 403.7222, F.S.; creating the Underground Injection Study Commission; providing membership of the commission; providing powers and duties of the commission; providing for reports; providing an appropriation; providing an effective date.

On motion by Senator Forman, by two-thirds vote **CS for SB 610** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33      Nays—None

The Senate resumed consideration of—

**SB 972**—A bill to be entitled An act relating to private construction contracts; creating the Construction Contract Prompt Payment Law; providing for applicability; providing definitions; requiring payment of such contracts within certain time periods and requiring accrual of interest; providing an exception; providing an effective date.

—which had been considered March 5. Pending **Amendment 3B**, by Senator Langley, was withdrawn.

Senator Dudley moved the following substitute amendment for **Amendment 3** as amended:

**Amendment 4 (with Title Amendment)**—On page 3, between lines 12 and 13, insert:

Section 2. (1) This section may be cited as the "Construction Contract Prompt Payment Law."

(2) This section applies only to written contracts to improve real property entered into after December 31, 1992, and for which a construction lien is authorized under part I of chapter 713, Florida Statutes.

(3) The terms used in this section have the same definitions as the terms defined in section 713.01, Florida Statutes. As used in this section, the term:

(a) "Obligor" means an owner, contractor, subcontractor, or sub-subcontractor who has an obligation to make payments under a contract that is subject to this section.

(b) "Obligee" means a contractor, subcontractor, sub-subcontractor, or materialman who is entitled to receive payments under a contract that is subject to this section.

(c) "Chain of contracts" means the contracts between the owner and the contractor, the contractor and any subcontractor or materialman, the subcontractor and any sub-subcontractor or materialman and the sub-subcontractor and any materialman.

(4) An obligor must pay an obligee with whom the obligor has a contract when all of the following events have occurred:

(a) The obligee is entitled to a payment under the terms of the contract between the obligor and the obligee, and the obligee has furnished the obligor with a written request for payment; and

(b) The obligor, except an owner, has been paid for the obligee's labor, services, or materials described in the obligee's request for payment by the person immediately above the obligor in the chain of contracts; and

(c) The obligee has furnished the obligor with all affidavits or waivers required for the owner to make proper payments under section 713.06, Florida Statutes.

(5)(a) Any payment due under the provisions of subsection (4), excluding any amounts withheld pursuant of subsection (7), shall bear interest at the rate specified in section 55.03, Florida Statutes, computed beginning on the 14th day after payment is due pursuant to subsection (4).

(b) If the request for payment is incomplete or contains an error, the obligor has 14 days within which to return the request for payment to the obligee for completion or correction. The obligor must specify in writing the reasons for the return of the request for payment. If the obligor does not return the request for payment, together with the specified reasons within the time provided in paragraph (a), the obligor must pay interest as provided in paragraph (a). If the obligor does return the request for payment within the time provided in paragraph (a), the time period for computing interest begins to run on the 14th day after the request for payment is completed or corrected and payment is otherwise due pursuant to subsection (4).

(6)(a) The right to receive interest on a payment under this section is not an exclusive remedy. This section does not modify the remedies available to any person under the terms of a contract or under any other statute. This section does not modify the rights of any person to recover prejudgment interest awarded to the prevailing party in any civil action or arbitration case.

(b) This section does not create a separate cause of action other than for the collection of interest due pursuant to subsection (5).

(c) If an obligor pays an amount less than the full amount due under the contract between the obligor and the obligee, the obligor may designate the portion of the labor, services, or materials to which the payment applies. In the absence of such a designation by the obligor, the obligee may apply the payment in any manner the obligee deems appropriate. This paragraph does not modify the obligation to make or demand a designation under the provisions of section 713.14, Florida Statutes.

(d) An obligee may not waive the right to receive interest before a payment is due under a contract subject to this section. An obligee may waive the interest due on any late payment on or after the date the payment is due under subsection (4).

(e) Unless the contract specifically provides to the contrary, a dispute between an obligor and obligee does not permit the obligor to withhold payment from the obligee or from any other obligee for labor, services, or materials provided to the obligor and which are not subject to or affected by the dispute.

(7)(a) An owner and a contractor may agree to a provision that allows the owner to withhold a portion of each progress payment until substantial completion of the entire project. The owner shall pay the contractor the balance of the contract price, including the amounts withheld from the progress payments, within 14 days after any of the following events occur.

1. Pursuant to the terms of the contract, an architect or engineer certifies that the project is substantially complete and, within the time provided in the contract between the owner and the contractor, the owner submits a written punchlist to the contractor and the contractor completes the items on the punchlist.

2. The issuance of a certificate of occupancy for the project, and within the time provided in the contract between the owner and the contractor, the owner submits a written punchlist to the contractor and the contractor completes the items on the punchlist.

3. The owner or a tenant of the owner takes possession of the construction project and, within the time provided in the contract between the owner and the contractor, the owner submits a written punchlist to the contractor and the contractor completes the items on the punchlist.

Any funds retained by the owner beyond the time period specified in this subsection shall accrue interest at the rate specified in subsection (5), computed from the date the payment is due to the date the payment is received by the contractor. If the contract between the owner and the contractor does not provide a time period for the owner to submit a written punchlist to the contractor, the time period shall be 15 days from the issuance of the certificate of substantial completion, the issuance of the certificate of occupancy, or the date the owner or the owner's tenant takes possession of the project, whichever first occurs. If no written punchlist is given to the contractor within the time provided in this subsection, interest begins to accrue 14 days after the issuance of the certificate of substantial completion, the issuance of the certificate of occupancy, or the date the owner or the owner's tenant takes possession of the project, whichever first occurs. For construction projects that are to be built in phases, this subsection applies to each phase of the total project. The contract between the owner and the contractor may specify a shorter time period for disbursing all or any portion of the final payment and the retainage.

(b) Except as provided in paragraph (a), an obligor and obligee may agree to a provision that allows the obligor to withhold a portion of each progress payment until completion of the entire project. The amounts withheld shall bear interest 14 days after payment of such amounts are due under the terms of the contract between the obligor and obligee and the other requirements of subsection (4) have been satisfied.

(c) An obligee may, from time to time, withdraw all or any portion of the amount retained from progress payments upon depositing with the obligor:

1. United States Treasury bonds, United States Treasury notes, United States Treasury certificates of indebtedness, or United States Treasury bills;

2. Bonds or notes of the State of Florida; or

3. Certificates of deposit, within the insured limits, from a state or national bank or state or federal savings and loan association authorized to do business in this state.

Amounts may not be withdrawn in excess of the market value of the securities listed in subparagraphs 1., 2., and 3. at the time of such withdrawal or in excess of the par value of such securities, whichever is less. The obligee shall execute and deliver all documents reasonably required to allow the obligor to document the transfer and the obligee shall pay any recording or registration costs incurred by the obligor in connection with the transfer. The obligor shall pay the obligee any interest or income earned on the securities so deposited within 30 days after the date such interest or income is received by the obligor. If the deposit is in the form of coupon bonds, the obligor shall deliver each coupon to the obligee within 30 days after the date the coupon matures. An obligee may withdraw funds retained from progress payments only to the extent the obligor has withdrawn such funds for the obligee's labor, services, or materials from the person immediately above the obligor in the chain of contracts.

Section 3. Subsection (2) of section 255.05, Florida Statutes, is amended and subsection (8) is added to that section to read:

255.05 Bond of contractor constructing public buildings; form; action by materialmen.—

(2) A claimant, except a laborer, who is not in privity with the contractor and who has not received payment for his labor, materials, or supplies shall, within 45 days after beginning to furnish labor, materials, or supplies for the prosecution of the work, furnish the contractor with a notice that he intends to look to the bond for protection. A claimant who is not in privity with the contractor and who has not received payment for his labor, materials, or supplies shall, within 90 days after performance of the labor or after complete delivery of the materials or supplies or, with respect to rental equipment, within 90 days after the date that

the rental equipment was last on the job site available for use, deliver to the contractor and to the surety written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment. No action for the labor, materials, or supplies may be instituted against the contractor or the surety unless both notices have been given. No action shall be instituted against the contractor or the surety on the bond after 1 year from the performance of the labor or completion of delivery of the materials or supplies. A claimant may not waive in advance his right to bring an action under the bond against the surety. *In any action brought to enforce a claim against a bond under this chapter, the prevailing party is entitled to recover a reasonable fee for the services of his attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of his costs, as allowed in equitable actions.*

Section 4. Section 713.01, Florida Statutes, is amended to read:

713.01 Definitions.—As used in this part, the term:

(1) "Architect" means a person or firm that is authorized to practice architecture pursuant to chapter 481 or a general contractor who provides architectural services under a design-build contract authorized by s. 481.229(3).

(2)(1) "Claim of lien" means the claim recorded as provided in s. 713.08.

(3)(2) "Clerk's office" means the office of the clerk of the circuit court of the county in which the real property is located.

(4)(3) "Commencement of the improvement" means the time of filing for record of the notice of commencement provided in s. 713.13.

(5)(4) "Contract" means an agreement for improving real property, written or unwritten, express or implied, and includes extras or change orders.

(6)(5) "Contract price" means the amount agreed upon by the contracting parties for performing all labor and services and furnishing all materials covered by their contract and must be increased or diminished by the price of extras or change orders, or by any amounts attributable to changes in the scope of the work or defects in workmanship or materials or any other breaches of the contract; but no penalty or liquidated damages between the owner and a contractor diminishes the contract price as to any other lienor. If no price is agreed upon by the contracting parties, this term means the value of all labor, services, or materials covered by their contract, with any increases and diminutions, as provided in this subsection. Allowance items are a part of the contract when accepted by the owner.

(7)(6) "Contractor" means a person other than a materialman or laborer who enters into a contract with the owner of real property for improving it, or who takes over from a contractor as so defined the entire remaining work under such contract. *The term "contractor" includes an architect, landscape architect, or engineer who improves real property pursuant to a design-build contract authorized by s. 489.103(16).*

(8)(7) "Direct contract" means a contract between the owner and any other person.

(9) "Engineer" means a person or firm that is authorized to practice engineering pursuant to chapter 471 or a general contractor who provides engineering services under a design-build contract authorized by s. 471.003(2)(j).

(10)(8) "Extras or change orders" means labor, services, or materials for improving real property authorized by the owner and added to or deleted from labor, services, or materials covered by a previous contract between the same parties.

(11)(9) "Furnish materials" means supply materials which are incorporated in the improvement including normal wastage in construction operations; or specially fabricated materials for incorporation in the improvement, not including any design work, submittals, or the like preliminary to actual fabrication of the materials; or supply materials used for the construction and not remaining in the improvement, subject to diminution by the salvage value of such materials; and includes supplying tools, appliances, or machinery used on the particular improvement to the extent of the reasonable rental value for the period of actual use (not determinable by the contract for rental unless the owner is a party thereto), but does not include supplying handtools. The delivery of materials to the site of the improvement is prima facie evidence of incorporation of such materials in the improvement.



(12)(10) "Improve" means build, erect, place, make, alter, remove, repair, or demolish any improvement over, upon, connected with, or beneath the surface of real property, or excavate any land, or furnish materials for any of these purposes, or perform any labor or services upon the improvements, including the furnishing of carpet or rugs or appliances that are permanently affixed to the real property; or perform any labor or services or furnish any materials in grading, seeding, sodding, or planting for landscaping purposes, including the furnishing of trees, shrubs, bushes, or plants that are planted on the real property, or in equipping any improvement with fixtures or permanent apparatus.

(13)(11) "Improvement" means any building, structure, construction, demolition, excavation, landscaping, or any part thereof existing, built, erected, placed, made, or done on land or other real property for its permanent benefit.

(14)(12) "Laborer" means any person other than an architect, landscape architect, engineer, land surveyor, and the like who, under properly authorized contract, personally performs on the site of the improvement labor or services for improving real property and does not furnish materials or labor service of others.

(15)(13) "Lender" means any person who loans money to an owner for construction of an improvement to real property, who secures that loan by recording a mortgage on the real property, and who periodically disburses portions of the proceeds of that loan for the payment of the improvement.

(16)(14) "Lienor" means a person who is:

- (a) A contractor;
- (b) A subcontractor;
- (c) A sub-subcontractor;
- (d) A laborer;
- (e) A materialman who contracts with the owner, a contractor, a subcontractor, or a sub-subcontractor; or
- (f) A professional lienor under s. 713.03;

and who has a lien or prospective lien upon real property under this part, and includes his successor in interest. No other person may have a lien under this part.

(17)(15) "Lienor giving notice" means any lienor, except a contractor, who has duly and timely served a notice to the owner and, if required, to the contractor and subcontractor, as provided in s. 713.06(2).

(18)(16) "Materialman" means any person who furnishes materials under contract to the owner, contractor, subcontractor, or sub-subcontractor on the site of the improvement or for direct delivery to the site of the improvement or, for specially fabricated materials, off the site of the improvement for the particular improvement, and who performs no labor in the installation thereof.

(19)(17) "Notice by lienor" means the notice to owner served as provided in s. 713.06(2).

(20)(18) "Notice of commencement" means the notice recorded as provided in s. 713.13.

(21)(19) "Owner" means a person who is the owner of any legal or equitable interest in real property, which interest can be sold by legal process, and who enters into a contract for the improvement of the real property. The term includes a condominium association pursuant to chapter 718 as to improvements made to association property or common elements. The term does not include any political subdivision, agency, or department of the state, a municipality, or other governmental entity.

(22)(20) "Perform" or "furnish" when used in connection with the words "labor" or "services" or "materials" means performance or furnishing by the lienor or by another for him.

(23)(21) "Post" or "posting" means placing the document referred to on the site of the improvement in a conspicuous place at the front of the site and in a manner that protects the document from the weather.

(24)(22) "Real property" means the land that is improved and the improvements thereon, including fixtures, except any such property owned by the state or any county, municipality, school board, or governmental agency, commission, or political subdivision.

(25)(23) "Site of the improvement" means the real property which is being improved and on which labor or services are performed or materials furnished in furtherance of the operations of improving such real property. In cases of removal, without demolition and under contract, of an improvement from one lot, parcel, or tract of land to another, this term means the real property to which the improvement is removed.

(26)(24) "Subcontractor" means a person other than a materialman or laborer who enters into a contract with a contractor for the performance of any part of such contractor's contract.

(27)(25) "Sub-subcontractor" means a person other than a materialman or laborer who enters into a contract with a subcontractor for the performance of any part of such subcontractor's contract.

Section 5. Subsection (5) of section 713.08, Florida Statutes, is amended to read:

#### 713.08 Claim of lien.—

(5) The claim of lien may be recorded at any time during the progress of the work or thereafter but not later than 90 days after the final furnishing of the labor or services or materials by the lienor; *or, with respect to rental equipment, within 90 days after the date that the rental equipment was last on the job site available for use*; provided if the original contractor defaults or the contract is terminated under s. 713.07(4), no claim for a lien attaching prior to such default shall be recorded after 90 days from the date of such default or 90 days after the final performance of labor or services or furnishing of materials, whichever occurs first. The claim of lien shall be recorded in the clerk's office. If such real property is situated in two or more counties, the claim of lien shall be recorded in the clerk's office in each of such counties. The recording of the claim of lien shall be constructive notice to all persons of the contents and effect of such claim. The validity of the lien and the right to record a claim therefor shall not be affected by the insolvency, bankruptcy, or death of the owner before the claim of lien is recorded.

Section 6. Subsection (1) of section 713.132, Florida Statutes, is amended to read:

#### 713.132 Notice of termination.—

(1) An owner may terminate the period of effectiveness of a notice of commencement by executing, swearing to, and recording a notice of termination that contains:

- (a) The same information as the notice of commencement;
- (b) The recording office document book and page reference numbers and date of the notice of commencement;
- (c) A statement of the date as of which the notice of commencement is terminated, which date may not be earlier than 30 days after the notice of termination is recorded;
- (d) A statement specifying that the notice applies to all the real property subject to the notice of commencement or specifying the portion of such real property to which it applies; **and**
- (e) A statement that all lienors have been paid in full; **and**:
- (f) *A statement that the owner has, before recording the notice of termination, served a copy of the notice of termination on the contractor and on each lienor who has given notice.*

Section 7. Subsection (4) is added to section 713.16, Florida Statutes, to read:

#### 713.16 Demand for copy of contract and statements of account; form.—

(4) *When an owner makes any payment to the contractor or directly to a lienor, the contractor may, in writing, demand of any other lienor a written statement under oath of his account showing the nature of the labor or services performed and to be performed, the materials furnished and to be furnished, the amount paid on account to date, the amount due, and the amount to become due. The failure to furnish the statement within 30 days after the demand, or the furnishing of a false or fraudulent statement, deprives the person who fails to furnish the statement, or who furnishes the false or fraudulent statement, of his lien.*

Section 8. Section 713.29, Florida Statutes, is amended to read:

713.29 Attorney's fees.—In any action brought to enforce a lien or to enforce a claim against a bond under this part, the prevailing party is entitled to recover a reasonable fee for the services of his attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of his costs, as allowed in equitable actions.

Section 9. Section 713.347, Florida Statutes, is created to read:

713.347 Lender responsibilities with construction loans.—

(1)(a) Within 5 business days after a lender makes a final determination, prior to the distribution of all funds available under a construction loan, that the lender will cease further advances pursuant to the loan, the lender shall serve written notice of that decision on the contractor and on any other lienor who has given the lender notice. The lender shall not be liable to the contractor based upon the decision of the lender to cease further advances if the lender gives the contractor notice of such decision in accordance with this subsection and the decision is otherwise permitted under the loan documents.

(b) The failure to give notice to the contractor under paragraph (a) renders the lender liable to the contractor to the extent of the actual value of the materials and direct labor costs furnished by the contractor plus 15 percent for overhead, profit, and all other costs from the date on which notice of the lender's decision should have been served on the contractor and the date on which notice of the lender's decision is served on the contractor. The lender and the contractor may agree in writing to any other reasonable method for determining the value of the labor, services, and materials furnished by the contractor.

(c) The liability of the lender shall in no event be greater than the amount of undisbursed funds at the time the notice should have been given unless the failure to give notice was done for the purpose of defrauding the contractor. The lender is not liable to the contractor for consequential or punitive damages for failure to give timely notice under this subsection. The contractor shall have a separate cause of action against the lender for damages sustained as the result of the lender's failure to give timely notice under this subsection. Such separate cause of action may not be used to hinder or delay any foreclosure action filed by the lender, may not be the basis of any claim for an equitable lien or for equitable subordination of the mortgage lien, and may not be asserted as an offset or a defense in the foreclosure case.

(d) For purposes of serving notice on the contractor under this subsection, the lender may rely on the name and address of the contractor listed in the notice of commencement or, if no notice of commencement is recorded, on the name and address of the contractor listed in the uniform building permit application. For purposes of serving notice on any other lienor under this subsection, the lender may rely upon the name and address of the lienor listed in the notice to owner.

(e) The contractor or any other lienor may not waive the right to receive notice under this paragraph.

(2)(a) If the lender and the borrower have designated a portion of the construction loan proceeds, the borrower may not authorize the lender to disburse the funds so designated for any other purpose until the owner serves the contractor and any other lienor who has given the owner a notice to owner with written notice of that decision, including the amount of such loan proceeds to be disbursed. For the purposes of this subsection, the term "designated construction loan proceeds" means that portion of the loan allocated to actual construction costs of the facility and shall not include allocated loan proceeds for tenant improvements where the contractor has no contractual obligation or work order to proceed with such improvements. The lender shall not be liable to the contractor based upon the reallocation of the loan proceeds or the disbursement of the loan proceeds if the notice is timely given in accordance with this subsection and the decision is otherwise permitted under the loan documents.

(b) If the lender is permitted under the loan documents to make disbursements from the loan contrary to the original loan budget without the borrower's prior consent, the lender is responsible for serving the notice to the contractor or other lienor required under this subsection.

(c) This subsection does not apply to a residential project of four units or less.

(d) This subsection does not apply to construction loans of less than \$1 million unless the lender has committed to make more than one loan, the total of which loans are greater than \$1 million, for the purpose of evading this subsection.

(e) The owner or the lender is not required to give notice to the contractor or any other lienor under this subsection unless the total amount of all disbursements described in paragraph (a) exceed 5 percent of the original amount of the designated construction loan proceeds or \$100,000, whichever is less.

(f) Disbursement of loan proceeds contrary to this subsection renders the lender liable to the contractor to the extent of any such disbursements or to the extent of the actual value of the materials and direct labor costs plus 15 percent for overhead, profit, and all other costs, whichever is less. The lender is not liable to the contractor for consequential or punitive damages for disbursing loan proceeds in violation of this subsection. The contractor shall have a separate cause of action against the lender for damages sustained as the result of the disbursement of loan proceeds in violation of this subsection. Such separate cause of action may not be used to hinder or delay any foreclosure action filed by the lender, may not be the basis of any claim for equitable subordination of the mortgage lien, and may not be asserted as an offset or a defense in the foreclosure case.

(g) For purposes of serving notice on the contractor under this subsection, the lender may rely upon the name and address of the contractor listed in the notice of commencement or, if no notice of commencement is recorded, the name and address of the contractor listed in the uniform building permit application. For purposes of serving notice on any other lienor under this subsection, the lender may rely upon the name and address of the lienor listed in the notice to owner.

(h) For purposes of this subsection, the lender may rely upon a written statement, signed under oath by the contractor or any other lienor, that confirms that the contractor or the lienor has received the written notice required by this subsection.

(i) A contractor and any other lienor may not waive his right to receive notice under this subsection.

Section 10. Subsection (15) of section 713.245, Florida Statutes, as created by section 13 of chapter 90-109, Laws of Florida, is amended to read:

713.245 Conditional payment bond.—

(15) This section is repealed July 1, 1993 July 1, 1992.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to construction contracts; creating the Construction Contract Prompt Payment Law; providing for applicability; providing definitions; requiring payment of such contracts within certain time periods and requiring accrual of interest; providing an exception; amending s. 255.05, F.S.; providing a revised time period for the filing of a notice to proceed against a bond with respect to rental equipment used at a public building construction site; amending s. 713.01, F.S.; providing definitions; amending s. 713.08, F.S.; providing time for recording a claim of lien; amending s. 713.132, F.S.; providing for notice of termination of a notice of commencement to improve real property; amending s. 713.16, F.S.; authorizing contractors to demand a written statement of a lienor's account; amending s. 713.29, F.S.; providing for attorney's fees in an action brought to enforce a claim against a bond; creating s. 713.347, F.S.; requiring lenders to give notice of a decision to cease further advances; restricting use of certain construction loan proceeds; providing for liability for noncompliance; amending s. 713.245, F.S.; delaying the date of repeal of s. 713.245, F.S.; providing an effective date.

Senator Dudley moved the following amendment to **Amendment 4** which was adopted:

**Amendment 4A**—On page 7, line 23, strike "count" and insert: court

Senators Langley and Dudley offered the following amendment to **Amendment 4** which was moved by Senator Dudley and adopted:

**Amendment 4B (with Title Amendment)**—On page 14, between lines 28 and 29, insert:

(5) Any lienor who has filed a claim of lien may make written demand on the owner for a written statement under oath showing the

amount of all direct contracts; the amount paid by or on behalf of the owner for all labor, services, and materials furnished pursuant to the direct contracts; the dates and amounts paid or to be paid by or on behalf of the owner for all improvements described in any direct contracts; and the reasonable estimated costs of completing any direct contract under which construction has ceased according to the terms and specifications of same. If known, the actual cost of completion must be provided. Any owner who does not provide the statement within 30 days after demand, or who provides a false or fraudulent statement, is not a prevailing party for purposes of an award of attorney's fees under s. 713.29. The written demand must include the following warning in conspicuous type in substantially the following form:

**WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT WITHIN 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL RESULT IN THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY ACTION TO ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING THIS STATEMENT.**

And the title is amended as follows:

In title, on page 20, line 12, after the first semicolon (;) insert: authorizing lienors to demand a written statement from owners;

Senator McKay moved the following amendment to **Amendment 4** which was adopted:

**Amendment 4C**—On page 4, lines 14, 19 and 25, strike "contractor completes the" and insert: contractor substantially completes all of the

Senator Dudley moved the following amendment to **Amendment 4** which was adopted:

**Amendment 4D**—On page 14, line 14, strike "Subsection (4) is" and insert: Subsections (4) and (5) are

**Amendment 4** as amended was adopted.

On motion by Senator Dudley, by two-thirds vote **SB 972** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34      Nays—None

## RECESS

On motion by Senator Childers, the Senate recessed at 10:59 a.m. to reconvene at 2:00 p.m. or upon call of the President.

## AFTERNOON SESSION

The Senate was called to order by the President at 2:15 p.m. A quorum present—36:

Madam President	Davis	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kiser	Thomas
Bruner	Forman	Kurth	Thurman
Burt	Gardner	Langley	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crotty	Grizzle	Myers	Wexler
Dantzler	Jenne	Plummer	Yancey

## CONSIDERATION OF RESOLUTIONS

On motion by Senator Diaz-Balart, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Diaz-Balart—

**SR 2518**—A resolution commending the Honorable William Lehman for his 30 years of service to Dade County and the State of Florida.

WHEREAS, William Lehman was born October 5, 1913, in Selma, Alabama, and graduated from the University of Alabama, and

WHEREAS, William Lehman moved to Miami and became a successful used car dealer and a teacher in the public schools, and

WHEREAS, William Lehman was elected to the Dade County School Board in 1966 and became its chairman in 1971, and

WHEREAS, William Lehman was elected to Congress in 1972 and has easily won reelection since then, never facing a strong opponent, and

WHEREAS, Congressman Lehman became one of the nation's most influential congressmen, serving for the past few years as Chairman of the Subcommittee on Transportation of the Appropriations Committee, and

WHEREAS, Congressman Lehman was instrumental in securing billions of dollars in federal funds to this state to build our highways and mass-transit systems, and

WHEREAS, Congressman Lehman also focused his tremendous energy on the plight of Jews in the former Soviet Union as well as the needs of the State of Israel, and

WHEREAS, Congressman William Lehman has represented the Seventeenth Congressional District with distinction during the past 20 years, and

WHEREAS, the Dade Delegation, on February 26, 1992, unanimously requested its chairman, Senator Lincoln Diaz-Balart, and its vice-chairman, Representative James Burke, to introduce resolutions of commendation of Congressman Lehman in the Florida Senate and the Florida House of Representatives, respectively, NOW, THEREFORE,

*Be It Resolved by the Senate of the State of Florida:*

That Congressman William Lehman is commended for his outstanding and distinguished service to the people of the Seventeenth Congressional District and to the people of Florida and of the Nation.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Congressman William Lehman as a tangible token of the sentiments of the Florida Senate.

On motion by Senator Diaz-Balart, **SR 2518** was read by title and was read the second time in full and adopted.

On motion by Senator Grant, by two-thirds vote **SR 2210** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Grant—

**SR 2210**—A resolution expressing regret at the death of Vivian Gaither.

WHEREAS, Vivian Gaither was born in Tallassee, Alabama, and received his bachelor's degree from George Peabody College for Teachers, before coming to Tampa in 1925, and, during his summers thereafter, earned his master's degree from Columbia Teacher's College, and

WHEREAS, Mr. Gaither was the former principal at Woodrow Wilson Junior High School, Plant High School, and Franklin Junior High School, and retired in 1966 after 33 years as principal of Hillsborough High School, and

WHEREAS, Vivian Gaither was honored in 1984 by having a new high school on N. Dale Mabry Highway named for him, and

WHEREAS, Vivian Gaither received an honorary doctorate degree from the University of Tampa, and was a member of the Tampa Rotary Club for more than 50 years, and

WHEREAS, Vivian Gaither was a former member of the Boy Scout Council and a former director of the Suncoast School Credit Union, and

WHEREAS, Vivian Gaither's name was synonymous with Hillsborough High School, and his life affected the lives of many students and parents in a positive way, NOW, THEREFORE,

*Be It Resolved by the Senate of the State of Florida:*

That this legislative body does pause in its deliberations to pay its respects to the late Vivian Gaither for a life dedicated to the youth of Hillsborough County.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be transmitted to Mrs. Jacqueline Gaither, widow of Vivian Gaither, as a tangible token of the sentiments and esteem of the Florida Senate.

—was taken up out of order by unanimous consent, read the second time in full and adopted.

## SPECIAL GUESTS

Senator Grant introduced the following guests who were seated in the chamber: Mrs. Jacqueline Gaither, wife of Vivian Gaither; Jean Swafford, niece; and Clara Holmes, friend.

Upon request of the President, Senator Grant escorted the guests to the rostrum where they were presented a copy of the resolution.

## SPECIAL ORDER, continued

The Senate resumed consideration of—

**CS for SB 2334**—A bill to be entitled An act relating to condominiums; amending s. 718.103, F.S.; revising definitions for purposes of ch. 718, F.S.; amending s. 718.111, F.S.; revising provisions with respect to the corporate entity of a condominium association; deleting certain exclusions provided under policies for condominium property insurance; revising requirements for maintaining official records of the condominium association; providing for privileged records and information; revising requirements for furnishing financial reports; providing for confidentiality; revising certain requirements for maintaining association funds; amending s. 718.112, F.S.; providing for nominations to the board of administration of an association; revising procedures for meetings and elections; revising provisions with respect to fidelity bonds of the association; amending s. 718.113, F.S.; providing requirements for approving alterations or additions to association property; amending s. 718.115, F.S.; providing that certain unpaid shares of common expenses or assessments are collectible from all unit owners; amending s. 718.116, F.S.; providing a mortgagee limited liability for unpaid assessments accruing prior to foreclosure sale; amending s. 718.1255, F.S.; providing for an award of costs in arbitration proceedings; providing for attorney's fees and costs in proceedings to enforce an arbitration award; amending s. 718.301, F.S.; prescribing procedures for the election of a member of the board of an association when unit owners other than the developer are entitled to elect such a member; conditioning developer turnover upon an audit if audits have been performed each year since incorporation; amending s. 718.3026, F.S.; providing certain exemptions from competitive bid requirements; amending s. 718.303, F.S.; providing for a hearing before a committee of unit owners; amending s. 718.501, F.S.; revising provisions with respect to the powers and duties of the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation; deleting provisions relating to random investigations by the division; providing for a mediation program; providing for procedures to handle complaints to the division; amending s. 718.5019, F.S.; prescribing criteria for making appointments to the Advisory Council on Condominiums; amending s. 718.503, F.S.; revising disclosure requirements for non-developers prior to the sale of a condominium unit; providing a limitation on plans to be approved; amending s. 718.504, F.S.; providing a limitation on plans to be approved; repealing ss. 718.5015, 718.5016, 718.5017, 718.5018, F.S., relating to the Office of the Condominium Ombudsman; providing an effective date.

—which had been considered March 5. Pending **Amendment 1D**, by Senator Wexler, was adopted.

Senator Scott moved the following amendment to **Amendment 1** which was adopted:

**Amendment 1E**—On page 25, line 9, before the period (.) insert: *or the renewal continues the contract on terms similar to the originally awarded contract*

Senator Johnson moved the following amendments to **Amendment 1** which were adopted:

**Amendment 1F**—On page 11, line 5, and on page 51, line 24, after “up” insert: *on an emergency basis*

**Amendment 1G**—On page 11, line 6, and on page 51, line 25, after the period (.) insert: *Such emergency action shall be noticed and ratified at the next regular meeting of the board.*

**Amendment 1H**—On page 15, line 24, and on page 55, line 18, after “bylaws” insert: *, which vote may be by a proxy specifically delineating the different voting and election procedures*

**Amendment 1I**—On page 24, line 13, and on page 71, line 9, after “so” insert: *, which opt out may be accomplished by a proxy specifically setting forth the exception from this section*

**Amendment 1** as amended was adopted.

On motion by Senator Dudley, by two-thirds vote **CS for SB 2334** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32      Nays—1

## RECONSIDERATION

On motion by Senator Dudley, the Senate reconsidered the vote by which—

**SB 972**—A bill to be entitled An act relating to private construction contracts; creating the Construction Contract Prompt Payment Law; providing for applicability; providing definitions; requiring payment of such contracts within certain time periods and requiring accrual of interest; providing an exception; providing an effective date.

—passed as amended this day.

On motion by Senator Dudley, by two-thirds vote the Senate reconsidered the vote by which **SB 972** was read the third time.

On motion by Senator Dudley, the Senate reconsidered the vote by which **Amendment 4** as amended was adopted. **Amendment 4** as amended failed.

Senator Dudley moved the following amendment which was adopted:

**Amendment 5 (with Title Amendment)**—On page 1, strike everything after the enacting clause and insert:

Section 1. (1) This section may be cited as the “Construction Contract Prompt Payment Law.”

(2) This section applies only to written contracts to improve real property entered into after December 31, 1992, and for which a construction lien is authorized under part I of chapter 713, Florida Statutes.

(3) The terms used in this section have the same definitions as the terms defined in section 713.01, Florida Statutes. As used in this section, the term:

(a) “Obligor” means an owner, contractor, subcontractor, or sub-subcontractor who has an obligation to make payments under a contract that is subject to this section.

(b) “Obligee” means a contractor, subcontractor, sub-subcontractor, or materialman who is entitled to receive payments under a contract that is subject to this section.

(c) “Chain of contracts” means the contracts between the owner and the contractor, the contractor and any subcontractor or materialman, the subcontractor and any sub-subcontractor or materialman and the sub-subcontractor and any materialman.

(4) An obligor must pay an obligee with whom the obligor has a contract when all of the following events have occurred:

(a) The obligee is entitled to a payment under the terms of the contract between the obligor and the obligee, and the obligee has furnished the obligor with a written request for payment; and

(b) The obligor, except an owner, has been paid for the obligee's labor, services, or materials described in the obligee's request for payment by the person immediately above the obligor in the chain of contracts; and

(c) The obligee has furnished the obligor with all affidavits or waivers required for the owner to make proper payments under section 713.06, Florida Statutes.

(5)(a) Any payment due under the provisions of subsection (4), excluding any amounts withheld pursuant of subsection (7), shall bear interest at the rate specified in section 55.03, Florida Statutes, computed beginning on the 14th day after payment is due pursuant to subsection (4).

(b) If the request for payment is incomplete or contains an error, the obligor has 14 days within which to return the request for payment to the obligee for completion or correction. The obligor must specify in writing the reasons for the return of the request for payment. If the obligor does not return the request for payment, together with the specified reasons within the time provided in paragraph (a), the obligor must pay interest as provided in paragraph (a). If the obligor does return the request for

payment within the time provided in paragraph (a), the time period for computing interest begins to run on the 14th day after the request for payment is completed or corrected and payment is otherwise due pursuant to subsection (4).

(6)(a) The right to receive interest on a payment under this section is not an exclusive remedy. This section does not modify the remedies available to any person under the terms of a contract or under any other statute. This section does not modify the rights of any person to recover prejudgment interest awarded to the prevailing party in any civil action or arbitration case.

(b) This section does not create a separate cause of action other than for the collection of interest due pursuant to subsection (5).

(c) If an obligor pays an amount less than the full amount due under the contract between the obligor and the obligee, the obligor may designate the portion of the labor, services, or materials to which the payment applies. In the absence of such a designation by the obligor, the obligee may apply the payment in any manner the obligee deems appropriate. This paragraph does not modify the obligation to make or demand a designation under the provisions of section 713.14, Florida Statutes.

(d) An obligee may not waive the right to receive interest before a payment is due under a contract subject to this section. An obligee may waive the interest due on any late payment on or after the date the payment is due under subsection (4).

(e) Unless the contract specifically provides to the contrary, a dispute between an obligor and obligee does not permit the obligor to withhold payment from the obligee or from any other obligee for labor, services, or materials provided to the obligor and which are not subject to or affected by the dispute.

(7)(a) An owner and a contractor may agree to a provision that allows the owner to withhold a portion of each progress payment until substantial completion of the entire project. The owner shall pay the contractor the balance of the contract price, including the amounts withheld from the progress payments, within 14 days after any of the following events occur.

1. Pursuant to the terms of the contract, an architect or engineer certifies that the project is substantially complete and, within the time provided in the contract between the owner and the contractor, the owner submits a written punchlist to the contractor and the contractor substantially completes all of the items on the punchlist.

2. The issuance of a certificate of occupancy for the project, and within the time provided in the contract between the owner and the contractor, the owner submits a written punchlist to the contractor and the contractor substantially completes all of the items on the punchlist.

3. The owner or a tenant of the owner takes possession of the construction project and, within the time provided in the contract between the owner and the contractor, the owner submits a written punchlist to the contractor and the contractor substantially completes all of the items on the punchlist.

Any funds retained by the owner beyond the time period specified in this subsection shall accrue interest at the rate specified in subsection (5), computed from the date the payment is due to the date the payment is received by the contractor. If the contract between the owner and the contractor does not provide a time period for the owner to submit a written punchlist to the contractor, the time period shall be 15 days from the issuance of the certificate of substantial completion, the issuance of the certificate of occupancy, or the date the owner or the owner's tenant takes possession of the project, whichever first occurs. If no written punchlist is given to the contractor within the time provided in this subsection, interest begins to accrue 14 days after the issuance of the certificate of substantial completion, the issuance of the certificate of occupancy, or the date the owner or the owner's tenant takes possession of the project, whichever first occurs. For construction projects that are to be built in phases, this subsection applies to each phase of the total project. The contract between the owner and the contractor may specify a shorter time period for disbursing all or any portion of the final payment and the retainage.

(b) Except as provided in paragraph (a), an obligor and obligee may agree to a provision that allows the obligor to withhold a portion of each progress payment until completion of the entire project. The amounts withheld shall bear interest 14 days after payment of such amounts are due under the terms of the contract between the obligor and obligee and the other requirements of subsection (4) have been satisfied.

(c) An obligee may, from time to time, withdraw all or any portion of the amount retained from progress payments upon depositing with the obligor:

1. United States Treasury bonds, United States Treasury notes, United States Treasury certificates of indebtedness, or United States Treasury bills;

2. Bonds or notes of the State of Florida; or

3. Certificates of deposit, within the insured limits, from a state or national bank or state or federal savings and loan association authorized to do business in this state.

Amounts may not be withdrawn in excess of the market value of the securities listed in subparagraphs 1., 2., and 3. at the time of such withdrawal or in excess of the par value of such securities, whichever is less. The obligee shall execute and deliver all documents reasonably required to allow the obligor to document the transfer and the obligee shall pay any recording or registration costs incurred by the obligor in connection with the transfer. The obligor shall pay the obligee any interest or income earned on the securities so deposited within 30 days after the date such interest or income is received by the obligor. If the deposit is in the form of coupon bonds, the obligor shall deliver each coupon to the obligee within 30 days after the date the coupon matures. An obligee may withdraw funds retained from progress payments only to the extent the obligor has withdrawn such funds for the obligee's labor, services, or materials from the person immediately above the obligor in the chain of contracts.

Section 2. Subsection (2) of section 255.05, Florida Statutes, is amended and subsection (8) is added to that section to read:

255.05 Bond of contractor constructing public buildings; form; action by materialmen.—

(2) A claimant, except a laborer, who is not in privity with the contractor and who has not received payment for his labor, materials, or supplies shall, within 45 days after beginning to furnish labor, materials, or supplies for the prosecution of the work, furnish the contractor with a notice that he intends to look to the bond for protection. A claimant who is not in privity with the contractor and who has not received payment for his labor, materials, or supplies shall, within 90 days after performance of the labor or after complete delivery of the materials or supplies or, with respect to rental equipment, within 90 days after the date that the rental equipment was last on the job site available for use, deliver to the contractor and to the surety written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment. No action for the labor, materials, or supplies may be instituted against the contractor or the surety unless both notices have been given. No action shall be instituted against the contractor or the surety on the bond after 1 year from the performance of the labor or completion of delivery of the materials or supplies. A claimant may not waive in advance his right to bring an action under the bond against the surety. *In any action brought to enforce a claim against a bond under this chapter, the prevailing party is entitled to recover a reasonable fee for the services of his attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of his costs, as allowed in equitable actions.*

Section 3. Section 713.01, Florida Statutes, is amended to read:

713.01 Definitions.—As used in this part, the term:

(1) "Architect" means a person or firm that is authorized to practice architecture pursuant to chapter 481 or a general contractor who provides architectural services under a design-build contract authorized by s. 481.229(3).

(2)(1) "Claim of lien" means the claim recorded as provided in s. 713.08.

(3)(2) "Clerk's office" means the office of the clerk of the circuit court of the county in which the real property is located.

(4)(3) "Commencement of the improvement" means the time of filing for record of the notice of commencement provided in s. 713.13.

(5)(4) "Contract" means an agreement for improving real property, written or unwritten, express or implied, and includes extras or change orders.

(6)(5) "Contract price" means the amount agreed upon by the contracting parties for performing all labor and services and furnishing all materials covered by their contract and must be increased or diminished by the price of extras or change orders, or by any amounts attributable to changes in the scope of the work or defects in workmanship or materials or any other breaches of the contract; but no penalty or liquidated damages between the owner and a contractor diminishes the contract price as to any other lienor. If no price is agreed upon by the contracting parties, this term means the value of all labor, services, or materials covered by their contract, with any increases and diminutions, as provided in this subsection. Allowance items are a part of the contract when accepted by the owner.

(7)(6) "Contractor" means a person other than a materialman or laborer who enters into a contract with the owner of real property for improving it, or who takes over from a contractor as so defined the entire remaining work under such contract. *The term "contractor" includes an architect, landscape architect, or engineer who improves real property pursuant to a design-build contract authorized by s. 489.103(16).*

(8)(7) "Direct contract" means a contract between the owner and any other person.

(9) "Engineer" means a person or firm that is authorized to practice engineering pursuant to chapter 471 or a general contractor who provides engineering services under a design-build contract authorized by s. 471.003(2)(j).

(10)(8) "Extras or change orders" means labor, services, or materials for improving real property authorized by the owner and added to or deleted from labor, services, or materials covered by a previous contract between the same parties.

(11)(9) "Furnish materials" means supply materials which are incorporated in the improvement including normal wastage in construction operations; or specially fabricated materials for incorporation in the improvement, not including any design work, submittals, or the like preliminary to actual fabrication of the materials; or supply materials used for the construction and not remaining in the improvement, subject to diminution by the salvage value of such materials; and includes supplying tools, appliances, or machinery used on the particular improvement to the extent of the reasonable rental value for the period of actual use (not determinable by the contract for rental unless the owner is a party thereto), but does not include supplying handtools. The delivery of materials to the site of the improvement is prima facie evidence of incorporation of such materials in the improvement.

(12)(10) "Improve" means build, erect, place, make, alter, remove, repair, or demolish any improvement over, upon, connected with, or beneath the surface of real property, or excavate any land, or furnish materials for any of these purposes, or perform any labor or services upon the improvements, including the furnishing of carpet or rugs or appliances that are permanently affixed to the real property; or perform any labor or services or furnish any materials in grading, seeding, sodding, or planting for landscaping purposes, including the furnishing of trees, shrubs, bushes, or plants that are planted on the real property, or in equipping any improvement with fixtures or permanent apparatus.

(13)(11) "Improvement" means any building, structure, construction, demolition, excavation, landscaping, or any part thereof existing, built, erected, placed, made, or done on land or other real property for its permanent benefit.

(14)(12) "Laborer" means any person other than an architect, landscape architect, engineer, land surveyor, and the like who, under properly authorized contract, personally performs on the site of the improvement labor or services for improving real property and does not furnish materials or labor service of others.

(15)(13) "Lender" means any person who loans money to an owner for construction of an improvement to real property, who secures that loan by recording a mortgage on the real property, and who periodically disburses portions of the proceeds of that loan for the payment of the improvement.

(16)(14) "Lienor" means a person who is:

- (a) A contractor;
- (b) A subcontractor;
- (c) A sub-subcontractor;

(d) A laborer;

(e) A materialman who contracts with the owner, a contractor, a subcontractor, or a sub-subcontractor; or

(f) A professional lienor under s. 713.03;

and who has a lien or prospective lien upon real property under this part, and includes his successor in interest. No other person may have a lien under this part.

(17)(15) "Lienor giving notice" means any lienor, except a contractor, who has duly and timely served a notice to the owner and, if required, to the contractor and subcontractor, as provided in s. 713.06(2).

(18)(16) "Materialman" means any person who furnishes materials under contract to the owner, contractor, subcontractor, or sub-subcontractor on the site of the improvement or for direct delivery to the site of the improvement or, for specially fabricated materials, off the site of the improvement for the particular improvement, and who performs no labor in the installation thereof.

(19)(17) "Notice by lienor" means the notice to owner served as provided in s. 713.06(2).

(20)(18) "Notice of commencement" means the notice recorded as provided in s. 713.13.

(21)(19) "Owner" means a person who is the owner of any legal or equitable interest in real property, which interest can be sold by legal process, and who enters into a contract for the improvement of the real property. The term includes a condominium association pursuant to chapter 718 as to improvements made to association property or common elements. The term does not include any political subdivision, agency, or department of the state, a municipality, or other governmental entity.

(22)(20) "Perform" or "furnish" when used in connection with the words "labor" or "services" or "materials" means performance or furnishing by the lienor or by another for him.

(23)(21) "Post" or "posting" means placing the document referred to on the site of the improvement in a conspicuous place at the front of the site and in a manner that protects the document from the weather.

(24)(22) "Real property" means the land that is improved and the improvements thereon, including fixtures, except any such property owned by the state or any county, municipality, school board, or governmental agency, commission, or political subdivision.

(25)(23) "Site of the improvement" means the real property which is being improved and on which labor or services are performed or materials furnished in furtherance of the operations of improving such real property. In cases of removal, without demolition and under contract, of an improvement from one lot, parcel, or tract of land to another, this term means the real property to which the improvement is removed.

(26)(24) "Subcontractor" means a person other than a materialman or laborer who enters into a contract with a contractor for the performance of any part of such contractor's contract.

(27)(25) "Sub-subcontractor" means a person other than a materialman or laborer who enters into a contract with a subcontractor for the performance of any part of such subcontractor's contract.

Section 4. Subsection (5) of section 713.08, Florida Statutes, is amended to read:

713.08 Claim of lien.—

(5) The claim of lien may be recorded at any time during the progress of the work or thereafter but not later than 90 days after the final furnishing of the labor or services or materials by the lienor; or, with respect to rental equipment, within 90 days after the date that the rental equipment was last on the job site available for use; provided if the original contractor defaults or the contract is terminated under s. 713.07(4), no claim for a lien attaching prior to such default shall be recorded after 90 days from the date of such default or 90 days after the final performance of labor or services or furnishing of materials, whichever occurs first. The claim of lien shall be recorded in the clerk's office. If such real property is situated in two or more counties, the claim of lien shall be recorded in the clerk's office in each of such counties. The recording of the claim of lien shall be constructive notice to all persons of the contents and effect of such claim. The validity of the lien and the right to record a claim therefor shall not be affected by the insolvency, bankruptcy, or death of the owner before the claim of lien is recorded.



Section 5. Subsection (1) of section 713.132, Florida Statutes, is amended to read:

713.132 Notice of termination.—

(1) An owner may terminate the period of effectiveness of a notice of commencement by executing, swearing to, and recording a notice of termination that contains:

- (a) The same information as the notice of commencement;
- (b) The recording office document book and page reference numbers and date of the notice of commencement;
- (c) A statement of the date as of which the notice of commencement is terminated, which date may not be earlier than 30 days after the notice of termination is recorded;
- (d) A statement specifying that the notice applies to all the real property subject to the notice of commencement or specifying the portion of such real property to which it applies; ~~and~~
- (e) A statement that all lienors have been paid in full; ~~and~~.
- (f) *A statement that the owner has, before recording the notice of termination, served a copy of the notice of termination on the contractor and on each lienor who has given notice.*

Section 6. Subsections (4) and (5) are added to section 713.16, Florida Statutes, to read:

713.16 Demand for copy of contract and statements of account; form.—

(4) *When an owner makes any payment to the contractor or directly to a lienor, the contractor may, in writing, demand of any other lienor a written statement under oath of his account showing the nature of the labor of services performed and to be performed, the materials furnished and to be furnished, the amount paid on account to date, the amount due, and the amount to become due. The failure to furnish the statement within 30 days after the demand, or the furnishing of a false or fraudulent statement, deprives the person who fails to furnish the statement, or who furnishes the false or fraudulent statement, of his lien.*

(5) *Any lienor who has filed a claim of lien may make written demand on the owner for a written statement under oath showing the amount of all direct contracts; the amount paid by or on behalf of the owner for all labor, services, and materials furnished pursuant to the direct contracts; the dates and amounts paid or to be paid by or on behalf of the owner for all improvements described in any direct contracts; and the reasonable estimated costs of completing according to the terms and specification of same any direct contract under which construction has ceased. If known, the actual cost of completion must be provided. Any owner who does not provide the statement within 30 days after demand, or who provides a false or fraudulent statement, is not a prevailing party for purposes of an award of attorney's fees under s. 713.29. The written demand must include the following warning in conspicuous type in substantially the following form:*

**WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT WITHIN 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL RESULT IN THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY ACTION TO ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING THIS STATEMENT.**

Section 7. Section 713.29, Florida Statutes, is amended to read:

713.29 Attorney's fees.—In any action brought to enforce a lien or to enforce a claim against a bond under this part, the prevailing party is entitled to recover a reasonable fee for the services of his attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of his costs, as allowed in equitable actions.

Section 8. Section 713.347, Florida Statutes, is created to read:

713.347 Lender responsibilities with construction loans.—

(1)(a) Within 5 business days after a lender makes a final determination, prior to the distribution of all funds available under a construction loan, that the lender will cease further advances pursuant to the loan, the lender shall serve written notice of that decision on the contractor and on

any other lienor who has given the lender notice. The lender shall not be liable to the contractor based upon the decision of the lender to cease further advances if the lender gives the contractor notice of such decision in accordance with this subsection and the decision is otherwise permitted under the loan documents.

(b) The failure to give notice to the contractor under paragraph (a) renders the lender liable to the contractor to the extent of the actual value of the materials and direct labor costs furnished by the contractor plus 15 percent for overhead, profit, and all other costs from the date on which notice of the lender's decision should have been served on the contractor and the date on which notice of the lender's decision is served on the contractor. The lender and the contractor may agree in writing to any other reasonable method for determining the value of the labor, services, and materials furnished by the contractor.

(c) The liability of the lender shall in no event be greater than the amount of undisbursed funds at the time the notice should have been given unless the failure to give notice was done for the purpose of defrauding the contractor. The lender is not liable to the contractor for consequential or punitive damages for failure to give timely notice under this subsection. The contractor shall have a separate cause of action against the lender for damages sustained as the result of the lender's failure to give timely notice under this subsection. Such separate cause of action may not be used to hinder or delay any foreclosure action filed by the lender, may not be the basis of any claim for an equitable lien or for equitable subordination of the mortgage lien, and may not be asserted as an offset or a defense in the foreclosure case.

(d) For purposes of serving notice on the contractor under this subsection, the lender may rely on the name and address of the contractor listed in the notice of commencement or, if no notice of commencement is recorded, on the name and address of the contractor listed in the uniform building permit application. For purposes of serving notice on any other lienor under this subsection, the lender may rely upon the name and address of the lienor listed in the notice to owner.

(e) The contractor or any other lienor may not waive the right to receive notice under this paragraph.

(2)(a) If the lender and the borrower have designated a portion of the construction loan proceeds, the borrower may not authorize the lender to disburse the funds so designated for any other purpose until the owner serves the contractor and any other lienor who has given the owner a notice to owner with written notice of that decision, including the amount of such loan proceeds to be disbursed. For the purposes of this subsection, the term "designated construction loan proceeds" means that portion of the loan allocated to actual construction costs of the facility and shall not include allocated loan proceeds for tenant improvements where the contractor has no contractual obligation or work order to proceed with such improvements. The lender shall not be liable to the contractor based upon the reallocation of the loan proceeds or the disbursement of the loan proceeds if the notice is timely given in accordance with this subsection and the decision is otherwise permitted under the loan documents.

(b) If the lender is permitted under the loan documents to make disbursements from the loan contrary to the original loan budget without the borrower's prior consent, the lender is responsible for serving the notice to the contractor or other lienor required under this subsection.

(c) This subsection does not apply to a residential project of four units or less.

(d) This subsection does not apply to construction loans of less than \$1 million unless the lender has committed to make more than one loan, the total of which loans are greater than \$1 million, for the purpose of evading this subsection.

(e) The owner or the lender is not required to give notice to the contractor or any other lienor under this subsection unless the total amount of all disbursements described in paragraph (a) exceed 5 percent of the original amount of the designated construction loan proceeds or \$100,000, whichever is less.

(f) Disbursement of loan proceeds contrary to this subsection renders the lender liable to the contractor to the extent of any such disbursements or to the extent of the actual value of the materials and direct labor costs plus 15 percent for overhead, profit, and all other costs, whichever is less. The lender is not liable to the contractor for consequen-

tial or punitive damages for disbursing loan proceeds in violation of this subsection. The contractor shall have a separate cause of action against the lender for damages sustained as the result of the disbursement of loan proceeds in violation of this subsection. Such separate cause of action may not be used to hinder or delay any foreclosure action filed by the lender, may not be the basis of any claim for equitable subordination of the mortgage lien, and may not be asserted as an offset or a defense in the foreclosure case.

(g) For purposes of serving notice on the contractor under this subsection, the lender may rely upon the name and address of the contractor listed in the notice of commencement or, if no notice of commencement is recorded, the name and address of the contractor listed in the uniform building permit application. For purposes of serving notice on any other lienor under this subsection, the lender may rely upon the name and address of the lienor listed in the notice to owner.

(h) For purposes of this subsection, the lender may rely upon a written statement, signed under oath by the contractor or any other lienor, that confirms that the contractor or the lienor has received the written notice required by this subsection.

(i) A contractor and any other lienor may not waive his right to receive notice under this subsection.

Section 9. Subsection (15) of section 713.245, Florida Statutes, as created by section 13 of chapter 90-109, Laws of Florida, is amended to read:

713.245 Conditional payment bond.—

(15) This section is repealed *July 1, 1993* ~~July 1, 1992~~.

Section 10. This act shall take effect July 1, 1992, except that section 9 shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, strike everything before the enacting clause and insert: An act relating to construction contracts; creating the Construction Contract Prompt Payment Law; providing for applicability; providing definitions; requiring payment of such contracts within certain time periods and requiring accrual of interest; providing an exception; amending s. 255.05, F.S.; providing a revised time period for the filing of a notice to proceed against a bond with respect to rental equipment used at a public building construction site; amending s. 713.01, F.S.; providing definitions; amending s. 713.08, F.S.; providing time for recording a claim of lien; amending s. 713.132, F.S.; providing for notice of termination of a notice of commencement to improve real property; amending s. 713.16, F.S.; authorizing contractors to demand a written statement of a lienor's account; authorizing lienors to demand a written statement from owners; amending s. 713.29, F.S.; providing for attorney's fees in an action brought to enforce a claim against a bond; creating s. 713.347, F.S.; requiring lenders to give notice of a decision to cease further advances; restricting use of certain construction loan proceeds; providing for liability for noncompliance; amending s. 713.245, F.S.; delaying the date of repeal of s. 713.245, F.S.; providing an effective date.

On motion by Senator Dudley, by two-thirds vote **SB 972** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30      Nays—None

#### SENATOR CHILDERS PRESIDING

The Senate resumed consideration of—

**SB 348**—A bill to be entitled An act relating to veterans; amending s. 1.01, F.S.; revising definition of the term "veteran"; revising definition of wartime service to include Persian Gulf War; amending s. 292.05, F.S.; revising date of an annual report to Governor and Legislature; amending s. 295.07, F.S.; providing employment preference in appointment and retention for certain veterans; amending s. 296.01, F.S.; revising short title; amending s. 296.02, F.S.; revising definition of terms "wartime service," "peacetime service," and "Veterans Home of Florida"; amending s. 296.03, F.S.; revising purpose of the home; amending s. 296.04, F.S.; revising provisions relating to the qualifications, duties, and responsibilities of the administrator; amending s. 296.06, F.S.; revising provisions relating to eligibility for residency in the home; amending s. 296.08, F.S.; conforming cross references; amending s. 296.09, F.S.; revising provisions relating to general register information; amending s. 296.10, F.S.; requiring contribu-

tion to support by certain members of the home; amending s. 296.11, F.S.; deleting Members' Deposits Trust Fund as created in the State Treasury; amending s. 296.12, F.S.; creating a Members' Deposits Trust Fund administered by the home; creating part II of chapter 296, F.S.; creating the "Veterans' Nursing Home of Florida Act"; providing purpose and definitions; providing for appointment of administrator and specifying qualifications, duties, and responsibilities; establishing a nondiscrimination policy of the home; providing for eligibility and priority of admittance; providing for members' contribution to support; creating certain trust funds in the State Treasury and providing for disposition of moneys; creating a Members' Deposits Trust Fund administered by the home; requiring annual reports to the Governor, Cabinet, and Legislature; providing for audits, inspections, and operational standards of the home; providing a directive to the Statutory Revision Division; providing an effective date.

—which had been considered and amended March 5.

On motion by Senator Jenne, **SB 348** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33      Nays—None

Consideration of **SB 2160** was deferred.

The Senate resumed consideration of—

**CS for SB 2390**—A bill to be entitled An act relating to group health insurance; creating s. 627.6699, F.S.; creating the "Employee Health Care Access Act"; providing purpose and intent; providing definitions; providing for application; providing for availability of coverage; providing procedures for electing to become a risk-assuming carrier; providing for a standard health benefit plan and a basic health benefit plan to be offered to all small employers; restricting the use of exclusions for preexisting conditions; establishing a health reinsurance program for small employers; providing for assessment of small employer carriers under the program; providing standards for marketing health care plans; providing for applicability of other state laws; authorizing the Department of Insurance to adopt rules for implementing and administering the act; requiring small employers to file with the department certain premium information relating to a certain time period; providing severability; providing an effective date.

—with pending **Amendment 1**, by Senator Jenne, which had been considered March 5.

Senator Jenne moved the following amendments to **Amendment 1** which were adopted:

**Amendment 1A**—On page 7, line 16, strike "board" and insert: committee

**Amendment 1B**—On page 7, strike all of lines 18-20 and insert: used by the carrier.

**Amendment 1C**—On page 30, line 3, strike "shall issue" and insert: issuing new health benefit plans shall offer

Senator McKay moved the following amendments to **Amendment 1** which were adopted:

**Amendment 1D**—On page 31, strike all of lines 22 and 23 and redesignate subsequent sub-subparagraphs.

**Amendment 1E (with Title Amendment)**—On page 39, between lines 8 and 9, insert:

Section 3. Subsections (13), (14), (15), and (16) are added to section 409.912, Florida Statutes, to read:

409.912 Cost-effective purchasing of health care.—The department shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The department shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies designed to facilitate the cost-effective purchase of a case-managed continuum of care. The department shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(13)(a) The department shall require each recipient of Medicaid who receives payments from or is determined eligible for the aid to families with dependent children program and certain related well children, to the extent permitted by federal law, to participate in a managed-care program. A managed-care program may include a state-licensed health maintenance organization, a Medicaid prepaid health plan, a Medicaid primary care case management program, or other similar program that emphasizes primary care and contains financial incentives for a provider to manage health care on a comprehensive, cost-effective basis for a majority of the recipient's health care needs.

(b) The department shall apply for a federal freedom-of-choice waiver and any other waiver authority necessary to expand its current primary care case management program known as MediPass from the department's Districts 5 and 6 to all counties in the state.

(c) In counties of more than 1 million population, where at least six health maintenance organizations or prepaid health plans offer comprehensive prepaid capitated services to Medicaid recipients, the department shall pursue a freedom-of-choice waiver and other federal authority, if necessary, to require all Medicaid recipients who receive payments from or are determined eligible for the aid to families with dependent children program and certain related well children to enroll in a plan offering comprehensive, prepaid capitated health services. The department may introduce a primary care case management program in any other county.

(d) A program may not be started under this subsection unless the department has secured the necessary federal waiver authority to assure that federal matching funds are available to pay for these services. In addition, a program may not be started unless the Assistant Secretary for Medicaid certifies, for each county where a program is to be started, that the necessary resources, including staff, are available to adequately inform recipients of their choice of managed-care plans and to enroll them with a provider and that the necessary resources, including staff, are available to adequately recruit providers, assure access, monitor performance and patient satisfaction, and assess the quality of care provided.

(14)(a) The department shall develop and require participation in managed-care programs for various special population groups within the Medicaid program, where feasible and cost effective, to the maximum extent permitted by federal law.

(b) The department shall investigate the feasibility of developing managed-care programs for and apply for waivers if necessary for at least the following groups of Medicaid beneficiaries:

1. Pregnant women.
2. Chronically ill children.
3. Elderly and disabled recipients, especially those who are at risk of nursing home placement.
4. Developmentally disabled individuals.
5. Qualified Medicare beneficiaries.
6. Adults who have chronic, high-cost medical conditions.
7. Adults and children who have mental health problems, especially those who have chronic mental health problems.
8. Other recipients for whom managed-care programs offer the opportunity of more cost-effective care and greater access to qualified providers.

(c) A program may not be started under this subsection unless the department has secured the necessary federal waiver authority to assure that federal matching funds are available to pay for services. In addition, a program may not be started unless the Assistant Secretary for Medicaid certifies, for each county where a program is to be started, that the necessary resources are available to adequately inform recipients of their choice of managed-care plans and to enroll them with a provider and that the necessary resources, including staff, are available to adequately recruit providers, assure access, monitor performance and patient satisfaction, and assess the quality of care provided.

(15)(a) The department shall encourage Medicaid recipients who receive payments from or are determined eligible for the Supplemental Security Income program, to the maximum extent feasible, to enroll in Medicaid or Medicare managed-care plans.

(b) The department shall require the enrollment of such Medicaid recipients who are not Medicare beneficiaries in a health maintenance organization or Medicaid prepaid health plan if available, or a primary care case management program or a special waiver program as applicable, to the extent permitted by federal law. The department shall develop a special reimbursement rate, which takes into consideration the higher utilization of such Medicaid recipients, for payment to health maintenance organizations or prepaid health plans agreeing to enroll these recipients.

(c) The department shall work cooperatively with the Social Security Administration and the Health Care Financing Administration to identify beneficiaries who are jointly eligible for Medicare and Medicaid and shall develop cooperative programs to encourage these beneficiaries to enroll in a Medicare participating health maintenance organization or prepaid health plan.

(d) A program may not be started under this subsection unless the department has secured the necessary federal waiver authority to assure that federal matching funds are available to pay for these services. In addition, a program may not be started unless the Assistant Secretary for Medicaid certifies, for each county where a program is to be started, that the necessary resources, including staff, are available to adequately inform recipients of their choice of managed-care plans and enroll them with a provider and that the necessary resources, including staff, are available to adequately recruit providers, assure access, monitor performance and patient satisfaction, and assess the quality of care provided.

(16)(a) The department shall encourage the development of public and private partnerships to foster the growth of health maintenance organizations and prepaid health plans that will provide high-quality health care to Medicaid recipients. In addition, the department shall assure that recipients are adequately informed of their rights and choices under managed health care and that managed-care plans offering care to Medicaid recipients are adequately monitored for quality of care, patient satisfaction, appropriate administrative controls, financial solvency, and such other factors as are necessary.

(b) The department is authorized to enter into contracts with traditional providers of health care to low-income persons to assist such providers with the technical aspects of cooperatively developing Medicaid prepaid health plans.

1. A contract must require participation by at least one community clinic and one disproportionate share hospital.

2. Eligible recipients for these contracts include disproportionate share hospitals, county public health units, federally initiated or federally funded community health centers, and counties that operate either a hospital or a community clinic.

3. A contract may not be for more than \$100,000 per year, and no contract may be extended with any particular provider for more than 2 years. The contract is intended only as seed or development funding, requires a commitment from the interested party, and must be for no less than \$25,000 nor more than \$65,000.

(c) The department shall develop and implement a comprehensive plan to assure that recipients are adequately informed of their choices and rights under a managed-care program and that managed-care programs meet acceptable standards of quality in patient care, patient satisfaction, and financial solvency.

1. The department must provide adequate means for informing patients of their choice and rights under a managed-care plan at the time of eligibility determination.

2. The department must monitor all managed-care providers at least quarterly; review patient grievances, disenrollment forms, medical records, and financial records; and require all managed-care providers to establish methods for assuring quality and patient satisfaction.

(d) The department shall contract with the Florida Health Care Purchasing Cooperative to develop performance criteria for all managed-care providers to monitor patient satisfaction, patient grievances, disenrollment, quality of care, and financial viability. To the extent possible, these criteria should be the same as those developed by the cooperative for other government entities. Managed-care providers must provide the cooperative the necessary information to measure their performance as a condition of their contracts. The cooperative must also

*provide an assessment of the cost effectiveness of Medicaid managed-care programs and waivers and must develop additional information necessary to propose or carry out waiver programs.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 40, line 19, after the semicolon (;) insert: amending s. 409.912, F.S.; requiring the Department of Health and Rehabilitative Services to apply for federal waivers to expand enrollment of Medicaid recipients in managed-care plans; requiring the department to enroll certain Medicaid clients in managed-care plans, if federal waivers are obtained; authorizing the department to contract with certain entities to develop Medicaid prepaid health plans; requiring the department to inform recipients of their choices and rights and to monitor managed-care plans; requiring the department to contract for certain services with the Florida Health Care Purchasing Cooperative;

On motion by Senator Jenne, further consideration of **CS for SB 2390** with pending **Amendment 1** as amended was deferred.

On motions by Senator Wexler, by two-thirds vote **HB 115** was withdrawn from the Committees on Criminal Justice and Appropriations.

On motion by Senator Wexler—

**HB 115**—A bill to be entitled An act relating to crimes against the elderly; amending s. 784.08, F.S.; providing that enhanced penalties apply for certain crimes against elderly persons regardless of whether the person charged with the crime has knowledge of the age of the victim; providing an effective date.

—a companion measure, was substituted for **SB 332** and read the second time by title. On motion by Senator Wexler, by two-thirds vote **HB 115** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36      Nays—None

Consideration of **SB 100** was deferred.

**SM 2464**—A memorial to the Congress of the United States, urging Congress to pass House Resolution 4066 to request from certain countries information concerning American servicemen missing in Southeast Asia during the Vietnam Conflict and to require the heads of federal departments and agencies to disclose to Congress information concerning such servicemen and civilians.

WHEREAS, more than 19 years after the Armed Forces of the United States ceased direct involvement in the Vietnam Conflict, more than 2,000 servicemen and civilians have not been accounted for, and

WHEREAS, many of those servicemen and civilians are from Florida and have living in Florida family members who continue to grieve for their loved ones who have not returned from honorably serving and protecting their country in foreign lands, and

WHEREAS, information concerning those servicemen and civilians who may still be alive, and information concerning the location of the remains of those who perished during or after the Vietnam Conflict, continues to be possessed by officials of the governments of certain countries, and

WHEREAS, disclosure of this information may not only end the suffering of many Floridians and Americans affected by the Vietnam Conflict, but may also lead to disclosure, by those same countries, of information concerning tens of thousands of Americans who have not yet returned from serving their country with dignity and honor in World War II and the Korean Conflict, and

WHEREAS, securing the release of those living Americans who served our country with dignity and honor, and enabling the repatriation of the remains of those who died striving to keep our country free, is the fulfillment of an unwritten commitment to those past, present, and future Americans who have protected and must continue to protect our Nation, and is the only proper and honorable course of action if we are to retain our dignity and remain strong and morally sound, and

WHEREAS, disclosure would make all generations appreciate the ultimate sacrifices that Americans have made in the name of democracy and would teach these generations that Americans place a higher value on freedom for all mankind than they place on their own lives, and

WHEREAS, House Resolution 4066 accomplishes the goals stated in this memorial, NOW, THEREFORE,

*Be It Resolved by the Legislature of the State of Florida:*

That the Congress of the United States is requested to pass House Resolution 4066.

**BE IT FURTHER RESOLVED** that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

—was read the second time in full. On motion by Senator Thurman, **SM 2464** was adopted and certified to the House. The vote on adoption was:

Yeas—33      Nays—None

**HM 2113**—A memorial to the Congress of the United States, urging Congress to pass House Resolution 4066 to request from certain countries information concerning American servicemen missing in Southeast Asia during the Vietnam Conflict and to require the heads of federal departments and agencies to disclose to Congress information concerning such servicemen and civilians.

—was read the second time in full. On motion by Senator Thurman, **HM 2113** was adopted and certified to the House. The vote on adoption was:

Yeas—33      Nays—None

**CS for HB 1415**—A bill to be entitled An act relating to state recreational areas; renaming the Flagler State Recreational Area in Flagler County as the "Gamble Rogers Memorial State Recreation Area at Flagler Beach"; directing that appropriate markers be erected; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **CS for HB 1415** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33      Nays—None

Consideration of **HB 2269** was deferred.

**SB 1920**—A reviser's bill to be entitled An act relating to the Florida Statutes; amending s. 550.52(7), Florida Statutes, to delete provisions which have expired; and repealing ss. 17.31, 20.315(8)(c), 112.192, 159.805(9), 159.808, 189.003, 196.295(3), 207.028, 212.08(5)(e), 212.14(6), 212.63(1), (3), 214.09, 215.3205, 218.37(3), 240.271(5)(b), 240.532, 265.288, 292.07, 322.261, 341.051(3)(d), 351.003(1), 351.009, 377.706, 381.0403(8), 402.3198, 403.1659, 404.056(2), 450.33(10), 450.34(3), 458.311(3), 468.1695(2), 481.205(3), 520.04, 520.041, 520.05, 520.06, 520.331, 520.332, 520.53, 520.54, 520.55, 520.56, 520.62, 520.66, 520.925, 520.96, 520.97, 550.67, 573.50, 573.51, 573.52, 573.53, 573.54, 573.55, 573.56, 573.57, 573.58, 573.59, 573.60, 573.61, 573.62, 573.63, 573.64, 573.65, 573.66, 573.67, 573.68, 573.69, 573.70, 573.71, 573.72, 573.73, 573.74, 573.75, 573.76, 573.801, 573.802, 573.803, 573.804, 573.805, 573.806, 573.807, 573.808, 573.809, 573.810, 573.811, 573.812, 573.813, 573.814, 573.815, 573.816, 573.817, 573.818, 573.819, 573.820, 573.821, 573.822, 573.823, 573.824, 573.825, 573.826, 573.827, 617.001, 617.002, 617.003, 617.01, 617.0101, 617.0105, 617.011, 617.012, 617.013, 617.014, 617.016, 617.017, 617.018, 617.019, 617.0201, 617.021, 617.022, 617.023, 617.026, 617.028, 617.0285, 617.03, 617.041, 617.05, 617.051, 617.052, 617.0525, 617.053, 617.054, 617.055, 617.056, 617.09, 617.10, 617.11, 617.12, 617.13, 617.14, 617.15, 617.16, 617.17, 617.18, 617.19, 617.21, 624.509(10), 624.512, 624.513, 624.514, 633.05, 633.051, 633.40, 695.21, 695.24, 697.206(1), 726.01, 726.07, 726.08, and 766.109, Florida Statutes, all of which provisions have become inoperative by noncurrent repeal or expiration, and pursuant to s. 11.242(5)(b) and (i), may be omitted from publication in the Florida Statutes 1993 only through a reviser's bill duly enacted by the Legislature.

—was read the second time by title.

The Committee on Rules and Calendar recommended the following amendment which was moved by Senator Thomas and adopted:

**Amendment 1 (with Title Amendment)**—On page 16, strike all of lines 10-23 and renumber subsequent sections.

And the title is amended as follows:

In title, on page 1, line 12, strike "458.311(3),"

On motion by Senator Thomas, by two-thirds vote **SB 1920** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34      Nays—None

**SB 1922**—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 20.19(9)(a), 381.703(2), 385.103(2)(d), 393.066(3), 393.068(4), 394.75(11)(b), 401.245(1), and 410.024(4), Florida Statutes; pursuant to the directive in s. 27, ch. 91-158, Laws of Florida, to correct cross-references and any other inconsistencies which may be found in the Florida Statutes as a result of the provisions of ch. 91-158, in order to properly implement the legislative intent expressed therein.

—was read the second time by title.

The Committee on Rules and Calendar recommended the following amendment which was moved by Senator Thomas and adopted:

**Amendment 1 (with Title Amendment)**—On page 9, strike all of lines 10-26

And the title is amended as follows:

In title, on page 1, line 5, strike "and 410.024(4),"

On motion by Senator Thomas, by two-thirds vote **SB 1922** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35      Nays—None

#### THE PRESIDENT PRESIDING

**CS for HB 2439**—A bill to be entitled An act relating to transportation; creating the Transportation Efficiency Act of 1992; amending s. 338.001, F.S.; providing that projects constructed as part of the Florida Intrastate Highway System Plan shall be included in the department's adopted work program; amending s. 335.182, F.S.; redefining the term "connection"; amending s. 339.155, F.S.; revising language with respect to transportation planning; amending s. 339.175, F.S.; revising language with respect to transportation planning organizations; creating a Metropolitan Planning Organization Advisory Council; providing for future repeal; amending s. 336.045, F.S.; revising language with respect to uniform minimum standards for design, construction, and maintenance; authorizing the department to accept certain donations; amending s. 333.025, F.S.; revising language with respect to air navigation and required permits for structures exceeding federal standards; amending s. 333.03, F.S.; revising language with respect to airport zoning regulations; creating s. 331.21, F.S.; providing a term of office for the presiding officer of an airport authority; providing criteria; amending s. 235.19, F.S.; revising language with respect to site planning and selection to provide a cross reference; amending s. 333.031, F.S.; revising language with respect to a report of the Airport Safety and Land Use Compatibility Study Commission; providing for the future repeal of s. 333.031, F.S., relating to the commission; creating s. 341.3201, F.S.; providing a short title; amending s. 341.321, F.S.; providing legislative intent with respect to the development of a high-speed rail transportation system; amending s. 341.322, F.S.; providing definitions; amending s. 341.325, F.S.; providing for special powers and duties of the department with respect to high-speed rail development; amending s. 341.329, F.S.; revising language with respect to bonds and project financing; providing reference to the department rather than the commission; amending s. 341.331, F.S.; revising language with respect to service designation and termini; amending s. 341.332, F.S.; revising language with respect to franchises; creating ss. 341.3331 through 341.3339, F.S.; providing for requests for proposals; providing for notice; providing for application for franchise and for filing; providing for confidentiality; providing for future review and repeal; providing for a franchise review process, for assessment, and for criteria; providing for interagency coordination of franchise application review; providing for public hearings; providing for the determination and award of the franchise, administrative proceedings, and final action on applications; providing for the effect of franchise; providing for post-franchise agreements; amending s. 341.334, F.S.; providing for right-of-way easements and eminent domain of the department; amending s. 341.335, F.S.; revising language with respect to the powers and duties of the Florida Land and Water Adjudicatory Commission; amending s. 341.336, F.S.; revising lan-

guage with respect to the powers and duties of the Department of Environmental Regulation and the Department of Community Affairs and affected agencies; creating s. 341.337, F.S.; providing for certification application, filing and contents; repealing s. 341.338, F.S., relating to requests for proposals; repealing s. 341.339, F.S., relating to notice of issuance of request for proposals; repealing s. 341.341, F.S., relating to application for franchise; amending s. 341.342, F.S.; revising language with respect to agreements concerning contents of certification of application and supporting documentation; amending s. 341.343, F.S.; providing for review of application for certification; amending s. 341.344, F.S.; creating the Citizen Planning and Environmental Advisory Committee; amending s. 341.345, F.S.; revising language with respect to alternative corridors or transit station locations; amending s. 341.346, F.S.; revising language with respect to hearing officers; creating s. 341.3465, F.S.; providing for the alteration of time limits; amending s. 341.347, F.S.; revising language with respect to local government hearings; amending s. 341.348, F.S.; revising language with respect to reports and studies; amending s. 341.351, F.S.; revising language with respect to notice of application for certification and proceedings relating to high-speed rail transportation system certification; amending s. 341.352, F.S.; revising language with respect to certification hearings; amending s. 341.353, F.S.; revising language with respect to the final disposition of application for certification; repealing s. 341.355, F.S., relating to the assessment of franchise component; repealing s. 341.358, F.S., relating to the conditions precedent to the award of a franchise; repealing s. 341.361, F.S., relating to determination and award of franchise; repealing s. 341.362, F.S., relating to terms and conditions of the franchise; amending s. 341.363, F.S.; revising language with respect to the effect of certification; amending s. 341.364, F.S.; revising language with respect to appeals to the board; creating s. 341.365, F.S.; providing for associated developments; amending s. 341.366, F.S.; revising language with respect to recording of notice of certified corridor route; amending s. 341.368, F.S.; revising language with respect to modification of franchise and certification; amending s. 341.369, F.S.; revising language with respect to the disposition of fees; increasing fees; amending s. 341.371, F.S.; revising language with respect to the revocation or suspension of the franchise; amending s. 341.372, F.S.; revising language with respect to administrative fines; amending s. 341.375, F.S.; revising language with respect to participation by women, minorities, and socially and economically disadvantaged persons; amending s. 341.381, F.S.; providing for applicability; amending s. 341.383, F.S.; revising language relating to local government authority to assess fees; amending s. 341.385, F.S.; revising language with respect to award of the franchise; amending s. 341.386, F.S.; conforming to the act; amending s. 341.031, F.S.; providing definitions; amending s. 341.041, F.S.; revising language with respect to the transit responsibilities of the department; amending s. 341.051, F.S.; revising language with respect to the funding participation of the department of public transit programs and projects; amending s. 341.052, F.S.; revising language with respect to block grant funds; amending s. 339.08, F.S.; restricting use of moneys in the State Transportation Trust Fund; amending s. 341.302, F.S.; providing for development of a rail system plan; providing for inclusion of certain elements of the plan; amending s. 341.3025, F.S.; prescribing rulemaking authority of entities that own or operate certain public rail systems; amending s. 341.303, F.S.; providing for funding of rail systems; reenacting s. 343.53(2), F.S., relating to the Tri-County Commuter Rail Authority; amending s. 343.54, F.S.; requiring plans for expansion of service of the Tri-County Commuter Rail Authority to be consistent with local comprehensive plans; reenacting s. 343.63(2), F.S., relating to the Central Florida Commuter Rail Authority; amending s. 343.64, F.S.; prescribing powers of the Central Florida Commuter Rail Authority with respect to feeder transit services and purchase of insurance; requiring the authority to adopt a plan of development; amending s. 343.73, F.S.; providing for membership of the governing board of the Tampa Bay Commuter Rail Authority; amending s. 343.74, F.S.; relating to the powers and duties of the Tampa Bay Commuter Rail Authority; providing the authority with power to purchase insurance; amending s. 339.135, F.S.; redefining the term "district work program"; directing the Florida Transportation Commission to conduct a statewide public hearing on the tentative work program; revising the procedure with respect to such program; revising language with respect to work programs of the department; amending s. 218.32, F.S.; revising language with respect to financial reporting of the department; amending s. 335.074, F.S.; revising language with respect to safety inspection of bridges; repealing s. 335.04(1)(b)5., F.S., relating to an annual report on the functional classification of roads; amending s. 334.046, F.S.; revising language with respect to department program objectives; repealing s. 339.136, F.S., relating to the Improved Tentative Work Program; creating s. 337.2723, F.S.; providing for the acquisition of property inter-



ests for transportation purposes; amending s. 337.271, F.S.; revising language with respect to negotiations for acquisitions; repealing s. 337.241, F.S., relating to preparation and recording of maps of reservation for transportation corridors and facilities; amending s. 348.68, F.S.; relating to consultation with Hillsborough County City-County Planning Commission; amending s. 337.273, F.S.; revising language with respect to transportation corridors; creating s. 337.107, F.S.; providing for contracts for right-of-way services; amending s. 337.25, F.S.; revising language with respect to acquisition, lease, and disposal of real and personal property; amending s. 337.274, F.S.; allowing the department to enter land to perform archaeological assessments; amending s. 337.276, F.S.; revising language with respect to advanced acquisition of right-of-way; amending s. 206.46, F.S.; revising language with respect to the State Transportation Trust Fund; amending s. 215.605, F.S.; providing a cross reference; authorizing funds not needed for debt service on state bonds for right-of-way acquisition or bridge construction to be transferred to the State Transportation Trust Fund; amending s. 255.565, F.S.; revising language with respect to the Asbestos Oversight Program Team; amending s. 337.106, F.S.; revising language with respect to professional service providers; amending s. 337.11, F.S.; revising language with respect to bids; amending s. 337.18, F.S.; revising language with respect to surety bonds; amending s. 337.175, F.S.; revising language with respect to retainage; amending s. 337.185, F.S.; providing for certain claims before the State Arbitration Board; amending s. 337.221, F.S.; revising language with respect to the claims settlement process; creating s. 337.108, F.S.; providing for indemnification with respect to hazardous materials and pollutants; amending s. 337.015, F.S.; directing the department to make payments for road and bridge construction at certain intervals; amending s. 337.17, F.S.; providing for bid guaranty payable to the department; amending s. 287.042, F.S.; revising language with respect to the powers and duties of the Division of Purchasing; amending s. 338.2275, F.S.; revising approved use of funds for turnpike projects; extending the Branan/Chaffee Road Facility; excluding a portion of the Western Beltway; authorizing use of funds for the Central Connector; amending s. 338.223, F.S.; revising language with respect to proposed turnpike projects; amending s. 337.26, F.S.; revising language with respect to instruments of sale, lease, or conveyance; amending s. 337.27, F.S.; revising language with respect to the exercise of the power of eminent domain by the department and noncharter counties; amending s. 316.1001, F.S.; revising language with respect to the payment of tolls on toll facilities and penalties for noncompliance; amending s. 320.03, F.S.; providing a cross reference; amending s. 316.660, F.S.; revising language with respect to fines for citations; amending s. 316.2952, F.S.; authorizing the use of electronic toll payment devices; amending s. 318.14, F.S.; revising language with respect to non-criminal traffic infractions; amending s. 318.18, F.S.; revising language with respect to civil penalties; creating s. 335.045, F.S.; providing for the applicability of the Florida Transportation Code; amending s. 348.60, F.S.; revising language with respect to lease-purchase agreements; authorizing the Orlando-Orange County Expressway Authority to construct a portion of the Western Beltway; authorizing the Orlando-Orange County Expressway Authority to construct certain improvements and facilities incidental to the expressway system; amending s. 348.966, F.S.; providing definitions; amending s. 348.968, F.S.; revising language with respect to the purposes and powers of the Santa Rosa Bay Bridge Authority; amending s. 348.969, F.S.; revising language with respect to bonds; amending s. 348.97, F.S.; revising language with respect to lease purchase; amending s. 348.971, F.S.; providing for the appointment of the department as agent of the authority; amending s. 348.973, F.S.; providing for cooperation; amending s. 348.974, F.S., relating to the covenant of the state; creating s. 348.9751, F.S.; providing remedies and pledges enforceable for bondholders; creating s. 348.9761, F.S.; providing for exemption from taxation; creating s. 348.9771, F.S.; providing eligibility for investments and security; creating s. 348.9781, F.S.; providing for applicability; amending s. 348.0012, F.S.; providing for the application of the Florida Expressway Authority Act; amending s. 348.0004, F.S.; prohibiting expressway authorities from undertaking certain construction; amending s. 338.251, F.S.; revising language with respect to the Toll Facilities Revolving Trust Fund; amending s. 338.250, F.S.; revising language with respect to Central Florida Beltway mitigation; amending s. 20.23, F.S.; revising language with respect to the Department of Transportation; amending s. 334.065, F.S.; revising language with respect to the Center for Urban Transportation Research; amending s. 212.69, F.S.; revising language with respect to certain funds in the Gas Tax Collection Trust Fund; creating an oversight committee and providing for powers and duties thereof; transferring the Clean Florida Commission from the Department of Transportation to the Department of Environmental Regulation; amending s. 403.4131, F.S.; conforming to the act; amending s.

334.044, F.S.; providing an additional duty of the Department of Transportation; repealing s. 321.001, F.S., relating to the power of the Governor to effectuate the purposes of the National Safety Act of 1966; amending s. 163.03, F.S.; eliminating a responsibility of the Department of Community Affairs with respect to highway safety grant programs; amending s. 110.205, F.S.; revising language with respect to certain positions exempt from the Career Service System; amending s. 335.20, F.S.; revising language with respect to the local government cooperative assistance program; amending s. 59, chapter 90-136, Laws of Florida; revising language with respect to the functional classification of roads; amending s. 337.407, F.S.; revising language with respect to the regulation of signs and lights within rights-of-way; exempting certain transit bus benches from departmental size requirements; amending s. 177.151, F.S.; revising language with respect to the state plane coordinate; providing effective dates.

—was read the second time by title.

Senator Forman moved the following amendment:

**Amendment 1 (with Title Amendment)**—On page 12, line 7, strike everything after the enacting clause and insert:

Section 1. Subsections (3) and (17) of section 341.302, Florida Statutes, are amended to read:

341.302 Rail program, duties and responsibilities of the department.—The department, in conjunction with other governmental units and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, the department shall:

(3) Develop and periodically update the rail ~~system component of the state transportation plan~~, on the basis of an analysis of statewide transportation needs. The rail ~~system plan component~~ shall include an identification of priorities, programs, and funding levels required to meet statewide needs. The rail ~~system plan component~~ shall be developed in a manner that will assure the maximum use of existing facilities and the optimum integration and coordination of the various modes of transportation, public and private, in the most cost-effective manner possible. *The rail system plan shall be updated at least every 2 years and include plans for both passenger rail service and freight rail service.*

(17) Exercise such other functions, powers, and duties in connection with the rail ~~system component of the state transportation plan~~ as ~~are~~ may be necessary to develop a safe, efficient, and effective statewide transportation system.

Section 2. Subsections (1) and (5) of section 341.3025, Florida Statutes, are amended to read:

341.3025 Multicounty public rail system fares and enforcement.—

(1) Any entity ~~that created pursuant to s. 163.01(7) which~~ owns or operates a public rail system in two or more counties of the state ~~may shall have the authority to~~ adopt rules and regulations relating to the operation and management of its rail system, including regulations relating to fares, fees, and charges for the use of the facilities and services of the system.

(5) For the purpose of enforcing the payment of such fares, fees, and charges for use of the facilities and services of the system, such entity shall have the authority:

(a) To employ enforcement officers or contract with a private firm or company to verify payment of appropriate fares or fees and to issue citations to persons traveling on the system without paying the appropriate fare or to persons who cause goods or other items for which a fee is charged to be carried without paying such fee. Such enforcement officers shall not ~~carry firearms or other weapons~~ or have arrest authority.

(b) To maintain records of citations issued and to accept payment of fines and costs.

Section 3. Subsections (2), and (4) of section 341.303, Florida Statutes, are amended to read:

341.303 Funding authorization and appropriations; eligibility and participation.—



(2) **PROJECT ELIGIBILITY.**—Any project that is necessary to carry out those duties and responsibilities enumerated in s. 341.302, that is consistent with the *approved local government comprehensive plan of the unit of government of the areas served by the rail service Florida Transportation Plan*, and that is contained in the adopted work program is eligible for the expenditure of state funds in accordance with the fund participation rates established in this section.

(4) **FUND PARTICIPATION; SERVICE DEVELOPMENT.**—

(a) The department is authorized to fund up to 50 percent of the ~~capital and~~ net operating costs of any eligible intercity or commuter rail service development project that is local in scope, *not to exceed the local match*.

(b) The department is authorized to fund up to 100 percent of the ~~capital and~~ net operating costs of any eligible intercity or commuter rail service development project that is statewide in scope or involves more than one county if no other governmental unit of appropriate jurisdiction exists. *For commuter rail service, after the 5th year of operation, the department's participation is limited to a maximum of 50 percent of the net operating costs of the service, and after the 7th year of operation, the department's participation is limited to a maximum of 25 percent of the net operating costs of the service for a maximum of 3 years.*

(c) Each such local or statewide service development project shall be identified in the appropriation request of the department in a manner that defines project objectives, the assigned operational and financial responsibilities, the timeframe required to develop the service, and the criteria by which the success of the project can be judged.

(d) Any service development project funded under this section shall continue to be eligible for such funds ~~in the third year of operation only if the project reaches a systemwide an operating ratio of 25 to 60 percent or more during the 5th second year, or, for a tri-county commuter rail, an operating ratio of 40 percent or more during the second year. All intercity and commuter rail service development projects shall be limited to 3 years except for a tri-county commuter rail, which shall be limited to 5 years.~~

(e) The term "net operating costs" means all operating costs of the project less any federal funds, fares, or other sources of income to the project.

Section 4. Subsection (4) of section 343.54, Florida Statutes, is amended to read:

343.54 Powers and duties.—

(4) The authority shall, ~~by February 1, 1990,~~ develop and adopt a plan for the operation, maintenance, and expansion of the tri-county commuter rail service. Such plan shall address the authority's plan for the development of public and private revenue sources, and the service to be provided, including expansions of current service *which are consistent, to the maximum extent feasible, with approved local government comprehensive plans.* The plan shall be reviewed and updated annually.

Section 5. Subsection (2) of section 343.64, Florida Statutes, is amended, and a new subsection (3) is added to that section, to read:

343.64 Powers and duties.—

(2) The authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, complain and defend in all courts in its own name.

(b) To adopt and use a corporate seal.

(c) To have the power of eminent domain for acquisition of the commuter rail system.

(d) To acquire, purchase, hold, lease as a lessee, and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority.

(e) To sell, convey, exchange, lease, or otherwise dispose of any real or personal property acquired by the authority, including air rights.

(f) To fix, alter, establish, and collect rates, fares, fees, rentals, and other charges for the use of any commuter rail system or facilities owned or operated by the authority.

(g) *To develop and provide feeder transit services to rail stations.*

(h)(g) To adopt bylaws for the regulation of the affairs and the conduct of the business of the authority. The bylaws shall provide for quorum and voting requirements, maintenance of minutes and other official records, and preparation and adoption of an annual budget.

(i)(h) To lease, rent, or contract for the operation or management of any part of a commuter rail system or commuter rail facility, including concessions. In awarding a contract, the authority shall consider, but is not limited to, the following:

1. The qualifications of each applicant.
2. The level of service.
3. The efficiency, cost, and anticipated revenue.
4. The construction, operation, and management plan.
5. The financial ability to provide reliable service.
6. The impact on other transportation modes, including the ability to interface with other transportation modes and facilities.

(j)(i) To enforce collection of rates, fees, and charges; and to establish and enforce fines and penalties for violations of any rules.

(k)(j) To advertise and promote commuter rail systems, commuter facilities, and activities of the authority.

(l)(k) To employ an executive director, attorney, staff, and consultants.

(m)(l) To cooperate with other governmental entities and to contract with other governmental agencies, including the Department of Transportation, the Federal Government, counties, and municipalities.

(n)(m) To enter into joint development agreements.

(o)(n) To accept funds from other governmental sources, and to accept private donations.

(p) *To purchase directly from local, national, or international insurance companies liability insurance which the authority is contractually and legally obligated to provide, the requirements of s. 287.022(1) notwithstanding.*

(3) *The authority shall, by February 1, 1993, develop and adopt a plan for the development of the Central Florida Commuter Rail. Such plan shall address the authority's plan for the development of public and private revenue sources, funding of capital and operating costs, the service to be provided, and the extent to which counties within the area of operation of the authority are to be served. The plan shall be reviewed and updated annually. The plan shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government served by the authority.*

Section 6. Subsection (2) of section 343.73, Florida Statutes, is amended to read:

343.73 Tampa Bay Commuter Rail Authority.—

(2) The governing board of the authority shall consist of *the following eight seven* voting members, ~~as follows~~:

(a) The Metropolitan Planning Organizations of Hillsborough, Pinellas, and Pasco Counties shall each elect a member as their representative on the board. The member must be an elected official and a member of the Metropolitan Planning Organization when elected and for the full extent of his term.

(b) The county commissions of Hillsborough, Pinellas, and Pasco Counties shall each appoint a citizen member to the board who is not a member of the county commission but who is a resident of the county from which he is appointed and a qualified elector of that county. Insofar as is practicable, the citizen member shall represent the business and civic interests of the community.

(c) The Secretary of Transportation shall appoint as ~~an ex-officio nonvoting~~ member of the board the district secretary, or his designee, for the district within which the area served by the Tampa Bay Commuter Rail Authority is located.

(d) The local transit authority in each member county shall elect as an ex officio nonvoting member of the board a member of the authority.

(e) The Governor shall appoint one member to the board who is a resident and qualified elector in the area served by the Tampa Bay Commuter Rail Authority.

Section 7. Paragraph (p) is added to subsection (2) of section 343.74, Florida Statutes, to read:

343.74 Powers and duties.—

(2) The authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(p) *To purchase directly from local, national, or international insurance companies liability insurance that the authority is contractually and legally obligated to provide, the requirements of s. 287.022(1) notwithstanding.*

Section 8. Paragraph (b) of subsection (2), and subsection (7) of section 20.23, Florida Statutes, are amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(2)

(b) The commission shall have the primary functions to:

1. Recommend major transportation policies for the Governor's approval, and assure that approved policies and any revisions thereto are properly executed.

2. Periodically review the status of the state transportation system and recommend improvements therein to the Governor and the Legislature.

3. Perform an in-depth evaluation of the annual department budget request, the Florida Transportation Plan, and the tentative work program for compliance with all applicable laws and established departmental policies. Except as specifically provided in s. 339.135(4)(c)2., (d), and (f), the commission may not consider individual construction projects, but shall consider methods of accomplishing the goals of the department in the most effective, efficient, and businesslike manner.

4. Review all construction, design, and maintenance standards which may have been issued by the department and cause to have issued only those standards which can be shown to be cost-effective, consistent with any federal regulations or other prevailing state law which may apply.

5. Monitor the financial status of the department on a regular basis to assure that the department is managing revenue and bond proceeds responsibly and in accordance with law and established policy.

6. Monitor on at least a quarterly basis, the efficiency, productivity, and management of the department, using performance and production standards developed by the commission.

7. Perform an in-depth evaluation of the factors causing disruption of project schedules in the adopted work program and recommend to the Legislature and the Governor methods to eliminate or reduce the disruptive effects of these factors.

8. Review all employee positions in the department and provide to the Legislature by January 1, 1991, recommendations as to those positions in the department that should be exempt from the Career Service System.

~~9. Review the Center for Urban Transportation Research budget, provide an opportunity for the department to comment on the budget, and recommend a budget which shall not be subject to change by the department, but which shall be submitted to the Governor along with the budget of the department.~~

9.10. Perform an in-depth evaluation of the allocation of funds to the department districts and to the various counties within each district for the time period covering the adopted work program and the tentative work program. A report on such evaluation, including any recommendations regarding statutory changes, shall be submitted to the Legislature and the Governor no later than April 15, 1991.

(7) The department is authorized to contract with local governmental or private entities, including consultants, if the department determines that:

(a) *The work can be done by such entities at a lower cost than by state employees;*

(b) *The work requires specialized expertise that is not economical for the state to acquire and maintain;*

(c) *The department workload is at a peak and it is not economical for the state to acquire and maintain the needed staff;*

(d) *The use of such entities will expedite the advancement of projects in the adopted work program for which funds are available; or*

(e) *The use of such entities is clearly in the best interest of the public and with the private sector to the maximum extent possible for the performance of the department's transportation responsibilities where it can be documented that such entities can perform the activities more cost-effectively.*

Such contracts ~~must~~ shall require compliance with applicable federal and state laws, and ~~must~~ clearly specify the product or service to be provided.

Section 9. Paragraph (i) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(i) The appointed secretaries, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; and the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Health and Rehabilitative Services, and the State Transportation Planner, State Highway Transportation Engineer, State Public Transportation Operations Administrator, district secretaries, district directors of planning and programming, production, and operations, and the managers of the offices specified in s. 20.23(3)(d)2., of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service.

Section 10. Paragraph (l) of subsection (3) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection and examination of records; exemptions.—

(3)

(l) Any information provided to an agency of state government or to an agency of a political subdivision of the state for the purpose of forming ridesharing arrangements, which information reveals the identity of an individual who has provided his name for ridesharing, ~~arrangements~~ as defined in s. 341.031 s. 341.031(9), is exempt from the provisions of subsection (1).

Section 11. Subsection (2) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(2) Notwithstanding any other provisions of law, from the proceeds transferred into the State Transportation Trust Fund from the Gas Tax Collection Trust Fund a ~~maximum of, \$30 million in fiscal year 1989-1990 and \$50 million in each fiscal year thereafter~~ shall be transferred into the Right-of-Way Acquisition and Bridge Construction Trust Fund created in s. 215.605, ~~as needed to pay debt service and related costs of bonds issued under ss. 215.605 and 337.276.~~

Section 12. Subsections (1) and (2) of section 212.69, Florida Statutes, are amended to read:

212.69 Distribution of proceeds.—

(1) Moneys collected pursuant to this part shall be deposited in the Gas Tax Collection Trust Fund created by s. 206.875 ~~and~~ 206.45. Such moneys, exclusive of the service charges imposed by s. 215.20, and exclusive of refunds granted pursuant to s. 212.67, shall be distributed monthly to the State Transportation Trust Fund, except that \$3.8 million per year shall be transferred to the Department of Natural Resources in equal monthly amounts; \$1 million of this amount shall be spent solely for nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement of aquatic weed control programs.

(2) Not less than 10 percent of the moneys deposited in the State Transportation Trust Fund pursuant to this section shall be allocated by the Department of Transportation for public transit and rail capital projects, including service development projects, as defined in s. 341.031(7) and (9) ~~and~~ 341.031(4) and (5), unless otherwise provided in the General Appropriations Act.

Section 13. Section 215.605, Florida Statutes, is amended to read:

215.605 State bonds for right-of-way acquisition or bridge construction.—

(1) The issuance of state bonds to finance or refinance the cost of acquiring real property or the rights to real property for state roads as defined by law, or to finance or refinance the cost of state bridge construction, and purposes incidental to such property acquisition or state bridge construction, is hereby authorized pursuant to s. 17, Art. VII of the State Constitution and ss. 215.57-215.83. Except for bonds issued to refinance property acquisition or bridge construction previously financed by bonds issued under this section, right-of-way or bridges financed by state bonds issued under this section shall first be authorized by the Legislature by an act relating to appropriations or by general law and shall be issued pursuant to the State Bond Act.

(2) Bonds issued pursuant to this section shall be payable primarily from motor fuel and special fuel taxes which are transferred to the Right-of-Way Acquisition and Bridge Construction Trust Fund, which fund is hereby created in the Department of Transportation, and shall additionally be secured by the full faith and credit of the state. Any moneys transferred into in the fund under s. 206.46 that are not needed to pay the debt service on, provide required financial coverage levels for, and fund debt service reserve funds, rebate obligations, or other amounts with respect to bonds issued pursuant to this section, may be transferred to the State Transportation Trust Fund used for right-of-way acquisition or bridge construction, as provided by law.

(3) The Department of Transportation shall request the Division of Bond Finance to issue the state bonds authorized by this section pursuant to the State Bond Act. The Department of Transportation shall certify that the projects to be financed will comply with the requirements of s. 339.135(4)(b) and (c) or (j) and (6).

(4) The proceeds from the sale of bonds issued pursuant to this section shall be deposited into the Right-of-way Acquisition and Bridge Construction Trust Fund.

(5) Section 339.135 shall apply to the Right-of-Way Acquisition and Bridge Construction Trust Fund.

Section 14. Section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional ~~architectural, engineering, landscape architectural, or land surveying~~ services; definitions; procedures; contingent fees prohibited; penalties.—

(1) **SHORT TITLE.**—This section ~~may be cited~~ shall be known as the "Consultants' Competitive Negotiation Act."

(2) **DEFINITIONS.**—For purposes of this section, the term:

(a)(b) "Agency" means the state or a state agency, municipality, or political subdivision, a school district, or a school board.

(b)(e) "Agency official" means ~~an~~ any elected or appointed officeholder, employee, consultant, ~~individual person~~ in the category of other personal service, or any other individual person receiving compensation from the state or a state agency, municipality, or political subdivision, a school district, or a school board.

(c)(d) "Compensation" means the total amount paid by the agency for professional services.

(d)(e) A "Continuing contract" means a contract for professional services entered into in accordance with all the procedures of this section ~~and~~ between an agency and a firm whereby the firm provides professional services to the agency for projects in which construction costs do not exceed \$500,000, for study activity in which ~~when~~ the fee for such professional service does not exceed \$25,000, or for work of a specified nature as outlined in the contract required by the agency, with no time limitation except that ~~the contract shall provide~~ a termination clause.

(e)(j) A "Design criteria package" means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information ~~so as~~ to permit design-build firms to prepare a bid or a response to an agency's request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package ~~shall~~ specify such performance-based criteria for the public construction project, including, but not limited to, the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, storm water retention and disposal, and parking requirements, ~~as may be applicable to the project.~~

(f)(k) A "Design criteria professional" means a firm ~~that~~ who holds a current certificate of registration under chapter 481 to practice architecture or landscape architecture or a firm ~~that~~ who holds a current certificate as a registered engineer under chapter 471 to practice engineering and ~~that~~ who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

(g)(i) A "Design-build contract" means a single contract with a design-build firm for the design and construction of a public construction project.

(h) A "Design-build firm" means a partnership, corporation, or other legal entity which:

1. Is certified under s. 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

2. Is certified under s. 471.023 to practice or to offer to practice engineering; certified under s. 481.219 to practice or to offer to practice architecture; or certified under s. 481.319 to practice or to offer to practice landscape architecture.

(i)(e) "Firm" means ~~an~~ any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, ~~or~~ land surveying, ~~certified real estate appraising, or right-of-way acquisition~~ in the state.

(j)(a) "Professional services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, ~~or~~ registered land surveying, ~~certified real estate appraising, or right-of-way acquisition~~, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, ~~or~~ registered land surveyor, ~~certified real estate appraiser, or right-of-way acquisition agent~~ in connection with his professional employment or practice.

(k)(f) "Project" means ~~a~~ that fixed capital outlay study or planning activity described in the public notice of the state or a state agency pursuant to paragraph (3)(a). An agency shall prescribe by administrative rule procedures for the determination of a project under its jurisdiction. Such procedures may include:

1. Determination of a project which constitutes a grouping of minor construction, rehabilitation, or renovation activities.

2. Determination of a project which constitutes a grouping of substantially similar construction, rehabilitation, or renovation activities.

(3) **PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.**—

(a) Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services are required to be purchased for a project the basic construction cost of which is estimated by

the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity *for which when* the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, except in a ~~cases of~~ valid public emergency emergencies—so certified by the agency head. The public notice ~~must shall~~ include a general description of the project and ~~shall~~ indicate how interested consultants may apply for consideration.

(b) Each agency shall encourage firms engaged in the lawful practice of their professions that desire to provide professional services to the agency to ~~annually~~ submit ~~annually~~ statements of qualifications and performance data.

(c) A ~~Any~~ firm or individual desiring to provide professional services to the agency must ~~first~~ be certified by the agency as qualified pursuant to law and to the regulations of the agency. The agency shall make a finding that the firm or individual to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.

(d) Each agency shall adopt administrative procedures for the evaluation of professional services, including, but not limited to, capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985, and ~~such other factors as may~~ be determined by the agency to be applicable to its particular requirements. When securing professional services, an agency shall endeavor to meet the minority business enterprise procurement goals set forth in s. 287.042.

(e) The public shall not be excluded from the proceedings under this section.

#### (4) COMPETITIVE SELECTION.—

(a) For each proposed project, the agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by, no less than three firms, regarding their qualifications, approach to the project, and ability to furnish the required services.

(b) The agency shall select in order of preference no fewer than three firms ~~considered deemed~~ to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the agency shall consider such factors as the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The agency may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations under subsection (5).

(c) This subsection does not apply to a professional service contract for a project the basic construction cost of which is estimated by the agency to be not in excess of the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity *for which when* the fee for professional services is not in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO.

(d) Nothing in this section ~~act~~ shall be construed to prohibit a continuing contract between a firm and an agency.

#### (5) COMPETITIVE NEGOTIATION.—

(a) The agency shall negotiate a contract with the most qualified firm for professional services at compensation which the agency determines is fair, competitive, and reasonable. In making such determination, the agency shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For any lump-sum or cost-plus-a-fixed-fee professional service contract over the threshold amount provided in s. 287.017 for CATEGORY FOUR, the agency shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract under

which such a certificate is required ~~must shall~~ contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the agency determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within 1 year following the end of the contract.

(b) ~~If Should~~ the agency ~~is be~~ unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the agency determines to be fair, competitive, and reasonable, negotiations with that firm shall be formally terminated. The agency shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency shall terminate negotiations. The agency shall then undertake negotiations with the third most qualified firm.

(c) ~~If Should~~ the agency ~~is be~~ unable to negotiate a satisfactory contract with any of the selected firms, the agency shall select additional firms in the order of their competence and qualification and continue negotiations in accordance with this subsection until an agreement is reached.

#### (6) PROHIBITION AGAINST CONTINGENT FEES.—

(a) Each contract entered into by the agency for professional services shall contain a prohibition against contingent fees as follows: "The architect (or registered land surveyor, ~~or~~ professional engineer, *certified real estate appraiser, or right-of-way acquisition agent*, as applicable) warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered land surveyor, ~~or~~ professional engineer, *certified real estate appraiser, or right-of-way acquisition agent*, as applicable) to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the architect (or registered land surveyor, ~~or~~ professional engineer, *certified real estate appraiser, or right-of-way acquisition agent*, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the agency ~~has shall~~ have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

(b) Any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for an architect, professional engineer, ~~or~~ registered land surveyor, *certified real estate appraiser, or right-of-way acquisition agent*, who offers, agrees, or contracts to solicit or secure agency contracts for professional services for any other individual, company, corporation, partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or the making of a contract for professional services ~~is shall, upon conviction in a competent court of this state, be found guilty of a first-degree misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

(c) Any architect, professional engineer, ~~or~~ registered land surveyor, *certified real estate appraiser, or right-of-way acquisition agent*, or any group, association, company, corporation, firm, or partnership thereof, ~~which who~~ offers to pay, or pays, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services ~~is shall, upon conviction in a state court of competent authority, be found guilty of a first-degree misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

(d) Any agency official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon the award or making of such a contract for professional services between the agency and any individual person, company, firm, partnership, or corporation ~~is shall, upon conviction by a court of competent authority, be found guilty of a first-degree misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

(7) AUTHORITY OF DEPARTMENT OF GENERAL SERVICES.—Notwithstanding any other provision of this section, the Department of General Services, Division of Building Construction, ~~is shall be~~ the agency of state government which is solely and exclusively authorized and empowered to administer and perform the functions

described in subsections (3), (4), and (5) respecting all projects for which the funds necessary to complete same are appropriated to the Department of General Services, irrespective of whether such projects are intended for the use and benefit of the Department of General Services or any other agency of government. However, nothing herein shall be construed to be in derogation of any authority conferred on the Department of General Services by other express provisions of law. Additionally, any agency of government may, with the approval of the Department of General Services, delegate to the Department of General Services authority to administer and perform the functions described in subsections (3), (4), and (5). Under the terms of the delegation, the agency may reserve its right to accept or reject a proposed contract.

(8) **STATE ASSISTANCE TO LOCAL AGENCIES.**—On any professional service contract for which the fee is over \$25,000, the Department of Transportation or the Department of General Services shall provide, upon request by a municipality, political subdivision, school board, or school district, and upon reimbursement of the costs involved, assistance in selecting consultants and in negotiating consultant contracts.

~~(9) **APPLICABILITY TO EXISTING CONTRACTS.**—Nothing in this section shall affect the validity or effect of any contracts in existence on July 1, 1973.~~

**(9)(10) APPLICABILITY TO DESIGN-BUILD CONTRACTS.—**

(a) Except as provided in this subsection, this section is not applicable to the procurement of design-build contracts by any agency, and any such agency shall award design-build contracts in accordance with the procurement laws, rules, and ordinances applicable to the agency.

(b) The design criteria package shall be prepared and sealed by a design criteria professional employed by or retained by the agency. If the agency elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional shall be selected and contracted with in accordance with the requirements of subsections (4) and (5). A design criteria professional ~~that who~~ has been selected to prepare the design criteria package ~~is~~ shall not be eligible to render services under a design-build contract executed pursuant to the design criteria package.

(c) Each agency shall adopt rules or ordinances for the award of design-build contracts. For municipalities, political subdivisions, school districts, and school boards, such procedures ~~must~~ shall include as a minimum the following:

1. The preparation of a design criteria package for the design and construction of the public construction project.

2. The qualification and selection of no fewer than three design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.

3. The criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on price, technical, and design aspects of the public construction project, weighted for the project.

4. The solicitation of competitive proposals, pursuant to a design criteria package, from those qualified design-build firms and the evaluation of the responses or bids submitted by those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.

5. For consultation with the employed or retained design criteria professional concerning the evaluation of the responses or bids submitted by the design-build firms, the supervision or approval by the agency of the detailed working drawings of the project; and for evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.

6. In the case of public emergencies, for the agency head to declare an emergency and authorize negotiations with the best qualified design-build firm available at that time.

~~(10)(11)~~ **REUSE OF EXISTING PLANS.**—Notwithstanding any other provision of this section, there shall be no public notice requirement or utilization of the selection process as provided in this section for projects in which the agency is able to reuse existing plans from a prior project. ~~However, subsequent to July 1, 1975, Public notice for any plans which are intended to be reused at some future time must~~ shall contain a statement which provides that the plans are subject to reuse in accordance with the provisions of this subsection.

~~(11) **LOCAL GOVERNMENTS' USE OF APPRAISERS.**—Notwithstanding any other provision of this section, a local governmental entity as defined in s. 334.034, is not required to use this section for the acquisition of real estate appraisal services or right-of-way acquisition services.~~

~~(12) **CONSTRUCTION OF LAW.**—Nothing in the amendment of this section by ch. 75-281, Laws of Florida, is intended to supersede the provisions of ss. 235-211 and 235-31.~~

Section 15. Section 331.21, Florida Statutes, is created to read:

331.21 Independent authorities; terms of presiding members.—Notwithstanding a contrary provision of any general or special law, the presiding member of an authority created by the legislature which operates an international airport enplaning more than eight million passengers annually may serve as presiding member for eight consecutive years, provided he or she is selected to serve each term as a member of the authority and each term as its presiding member under the applicable procedures of the authority.

Section 16. Section 334.30, Florida Statutes, is amended to read:

334.30 Private transportation facilities.—The Legislature hereby finds and declares that there is a public need for rapid construction of safe and efficient transportation facilities for the purpose of travel within the state, and that it is in the public's interest to provide for the construction of additional safe, convenient, and economical transportation facilities.

(1) The department may receive or solicit proposals and, ~~with legislative approval by a separate bill for each facility,~~ enter into agreements with private entities, or consortia thereof, for the construction and operation of privately owned and financed transportation facilities. Prior to ~~entering into such agreement seeking legislative approval,~~ the department must first determine that the proposed project:

- (a) Is in the public's best interest;

- (b) Would not require state funds to be used unless there is an overriding state interest; and

- (c) Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and citizens of the state in the event of default or cancellation of the agreement by the department.

The department shall ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne by the private entity.

(2) Agreements entered into pursuant to this section may authorize the private entity to impose tolls or fares for the use of the facility. However, the amount and use of toll or fare revenues may be regulated by the department to avoid unreasonable costs to users of the facility, ~~except that the department may not require a reduction in the tolls or fares charged for the use of such facility if the proceeds of such tolls or fares are pledged to repay bonds issued for a facility or are otherwise pledged as collateral for debts related to a facility.~~

(3) Each private transportation facility constructed pursuant to this section shall comply with all requirements of federal, state, and local laws; state, regional, and local comprehensive plans; department rules, policies, procedures, and standards for transportation facilities; and any other conditions which the department determines to be in the public's best interest.

(4) The department may exercise any power possessed by it, including eminent domain, with respect to the development and construction of state transportation projects to facilitate the development and construction of transportation projects pursuant to this section. The department may provide services to the private entity. Agreements for maintenance, law enforcement, and other services entered into pursuant to this section shall provide for full reimbursement for services rendered.

(5) Except as herein provided, the provisions of this section are not intended to amend existing laws by granting additional powers to, or further restricting, local governmental entities from regulating and entering into cooperative arrangements with the private sector for the planning, construction, and operation of transportation facilities.

(6) The department is prohibited from receiving or soliciting proposals for private transportation facilities until all rules necessary to implement the provisions of this section are adopted. ~~Such rules shall be published in the Florida Administrative Weekly no later than January 1, 1992.~~

(7) Subject to legislative appropriation, the department may allocate federal funds for a project developed pursuant to this section if the federal government makes funds available for such purpose.

Section 17. Section 335.18, Florida Statutes, is amended to read:

335.18 Short title.—Sections 335.18-335.188 ~~335.18-335.189~~ may be cited as the "State Highway System Access Management Act."

Section 18. Section 335.181, Florida Statutes, is amended to read:

335.181 Regulation of access to State Highway System; legislative findings, policy, and purpose.—

(1) It is the finding of the Legislature that:

(a) Regulation of access to the State Highway System is necessary in order to protect the public health, safety, and welfare, to preserve the functional integrity of the State Highway System, and to promote the safe and efficient movement of people and goods within the state.

(b) The development of an access management program, in accordance with this act, *will assist in the coordination of which coordinates* land-use planning decisions by local governments *with and* investments in the State Highway System *and will serve to enhance managed growth and the overall development of commerce within the state as served by;* ~~will serve to control the proliferation of connections and other access approaches to and from the State Highway System.~~ Without such a program, the health, safety, and welfare of the residents of this state *may be placed at risk, due to the fact that unregulated uncontrolled access to the State Highway System is one of the a-significant contributing factors factor* to the congestion and functional deterioration of the system.

(c) The Legislature further finds and declares that the development of an access management program in accordance with this act will enhance the development of an effective transportation system and increase the traffic-carrying capacity of the State Highway System and thereby reduce the incidences of traffic accidents, personal injury, and property damage or loss; mitigate environmental degradation; promote sound economic growth and the growth management goals of the state; reduce highway maintenance costs and the necessity for costly traffic operations measures; lengthen the effective life of transportation facilities in the state; prevent delays in public evacuations for natural storms and emergencies; enhance ~~disaster-response~~ disaster response readiness; and shorten response time for emergency vehicles.

(2) It is the policy of the Legislature that:

(a) Every owner of property which abuts a road on the State Highway System has a right to reasonable access to the ~~abutting state highway State Highway System of this state but does not~~ have the right of ~~unregulated a-particular means of access to such highway.~~ The operational capabilities of an access connection may be restricted by the department. However, a means of reasonable access to an abutting state highway may not be denied by the department, except on the basis of safety or operational concerns as provided in s. 335.184. ~~The right of access to a road on the State Highway System may be restricted if reasonable access may be provided pursuant to local regulations to another public road which abuts the property.~~

(b) The access rights of an owner of property abutting the State Highway System are *subject to reasonable regulation to ensure subordinate to the public's right and interest in a safe and efficient highway system.* ~~This paragraph does not authorize the department to deny a means of reasonable access to an abutting state highway, except on the basis of safety or operational concerns as provided in s. 335.184. Property owners are encouraged to implement the use of joint access where legally available.~~

(3) The Legislature further declares that it is the purpose of this act to provide a coordinated planning process for the permitting of access points on the State Highway System to effectuate the findings and policy of this act.

(4) Nothing in this act shall affect the right to full compensation under s. 6, Art. X of the State Constitution.

(5) *Nothing in this act limits the power of eminent domain vested in the department pursuant to s. 337.27.*

(6) *This act does not create any additional property rights. The denial of reasonable direct access to an abutting state highway pursuant to s. 335.184 is not compensable under the provisions of this act unless the denial would be otherwise compensable absent the provisions of this act. The denial in and of itself of an access permit by the Department of Transportation shall not be the only substantive allegation in support of a petition to state a cause of action pursuant to s. 6, Art. X, of the State Constitution.*

(7) *Nothing in this act prohibits the construction of service roads along a highway on the State Highway System so long as such service roads provide reasonable access to such highway. A property owner whose land abuts a service road is entitled to reasonable access to such service road pursuant to s. 335.184. However, nothing in this act requires that a property owner whose land abuts a service road be given direct access across the service road to the state highway served thereby.*

Section 19. Section 335.182, Florida Statutes, is amended to read:

335.182 Regulation of connections to roads on State Highway System; definition.—

(1) Vehicular access and connections to or from the State Highway System shall be regulated by the department in accordance with the provisions of this act in order to protect the public health, safety, and welfare.

~~(2) Counties, municipalities, or transportation or expressway authorities may adopt standards for access permitting on the State Highway System which meet or exceed the department's standards, provided that such standards may not be inconsistent with standards adopted by the department. Except when the department has delegated its access-permitting function to another permitting authority pursuant to s. 335.189, permits from both the department and the other permitting authority shall be required for connections to the State Highway System. Where the permit conditions of such permitting authority are inconsistent with the permit conditions required by the department, the department's requirements shall control.~~

~~(2)(3)~~ The department shall, no later than July 1, 1989, adopt, by rule, administrative procedures for its issuance and modification of access permits, closing of unpermitted connections, and revocation of permits in accordance with this act.

~~(3)(4)~~ As used in this act, the term:

(a) "Connection" means driveways, streets, turnouts, or other means of providing for the right of *reasonable* access to or from ~~controlled access facilities on the State Highway System.~~

(b) "Significant change" means *a change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding 25 percent more trip generation (either peak hour or daily) and exceeding 100 vehicles per day more than the existing use.* ~~"Permitting authority" means the department or any county, municipality, or transportation or expressway authority authorized to regulate access to the State Highway System pursuant to this act.~~

Section 20. Section 335.1825, Florida Statutes, is amended to read:

335.1825 Access permit required; authority to close unpermitted connections.—

(1) ~~A No connection may not shall~~ be constructed or substantially altered without obtaining an access permit in accordance with this act in advance of such action. ~~The department A-permitting authority~~ has the authority to restrict or deny access to the State Highway System, in accordance with the provisions of this act, at the location specified in the permit until the permittee constructs or alters the connection in accordance with the permit requirements.

(2) The cost of construction or alteration of a connection shall be borne by the permittee, except for alterations which are not required by law, but are made at the request of and for the convenience of the ~~department permitting authority.~~ The permittee, however, shall bear the cost of alteration of any connection which is required by the ~~department permitting authority~~ due to increased or altered traffic flows generated by changes in the facilities or nature of business conducted at the location specified in the permit, *if the department establishes the need for such alteration.*



(3) Except as otherwise provided in this act, an unpermitted connection is subject to closure by the department ~~appropriate-permitting authority~~ which shall have the right to install barriers across or remove the connection. When the department ~~permitting authority~~ determines that a connection is unpermitted and subject to closure, it shall provide reasonable notice of its impending action to the owner of property served by the connection. The department's procedures for providing notice and preventing the operation of unpermitted connections shall be adopted by rule.

(4) The department ~~permitting authority~~ may initiate injunctive proceedings as provided in s. 120.69 to enforce the provisions of this section or any rule or order issued or entered pursuant thereto.

Section 21. Section 335.183, Florida Statutes, is amended to read:

335.183 Permit application fee.—The department shall establish, by rule, a graduated schedule of fees for permit applications made to the department. ~~Such fees~~ The fee shall be nonrefundable and shall be used to offset the costs of administering the access permit review process and the costs associated with administering the provisions of this act. In no event shall a fee be less than \$25 or more than \$5,000.

Section 22. Section 335.184, Florida Statutes, is amended to read:

335.184 Access permit review process by the department; ~~permit denial; justification; administrative review.~~—The review process for access permit applications made by the department shall be as follows:

(1) Any person seeking an access permit shall file an application with the department ~~in the district in which the property for which the permit being requested is located.~~ The department, by rule, shall establish application form and content requirements. The fee as required by s. 335.183 must accompany the application.

(2) All permit applications shall be reviewed in conformity with s. 120.60.

(3) *A property owner shall be granted a permit for an access connection to the abutting state highway, unless the permitting of such access connection would jeopardize the safety of the public or have a negative impact upon the operational characteristics of the highway. Such access connection and permitted turning movements shall be based upon standards and criteria adopted, by rule, by the department.*

(a) *In making the determination of whether to deny access to an abutting property owner, the department may consider, but is not limited to considering:*

1. *The number or severity of traffic accidents occurring on the segment of the highway to which access is sought, and the impact thereon from providing such access;*

2. *The operational speed on the segment of the highway to which such access is sought and the level and amount of deceleration which such access would cause;*

3. *The geographic location of the segment of the highway to which such access is sought;*

4. *The operational characteristics of the segment of the highway to which such access is sought and the impact thereon from providing such access; or*

5. *The level of service of the segment of the highway to which such access is sought and the impact thereon from providing such access.*

(b) *If the department denies an application for an access permit, it must send written notification of such denial to the applicant. Such notification must include the specific reasons for the denial and inform the applicant of his rights under paragraphs (c) and (d).*

(c) *An applicant whose permit has been denied may, within 7 days after the receipt of notification of such denial, request a meeting with department personnel to determine whether any means exist by which the reasons for denial of a permit may be mitigated so that the permit may be issued. Upon the timely receipt of a written request for such meeting, the appropriate department personnel shall meet with the applicant to attempt such mitigation. Such request or the failure to make such request, any statements made during such meeting, and the results of such meeting shall not be admissible in any subsequent judicial or administrative proceeding regarding the denial of an access permit.*

(d) *The denial of an access permit pursuant to this section shall be subject to administrative review under the provisions of chapter 120.*

*Nothing in this subsection limits the department's authority to restrict the operational characteristics of a particular means of access.*

Section 23. Section 335.185, Florida Statutes, is amended to read:

335.185 Permit conditions; expiration.—

(1) The department ~~permitting authority~~ may issue a permit subject to any reasonable conditions necessary to carry out the provisions of this act, ~~including, but not limited to, requiring the use of a joint-use connection.~~ The department ~~permitting authority~~ may revoke a permit if the applicant fails to comply with the conditions upon which the issuance of the permit was predicated.

(2) All permits issued pursuant to this act shall automatically expire and become invalid if the connection is not constructed within 1 year after the issuance of the permit, ~~unless the department extends the date of expiration, for good cause, upon its own initiative or upon the request of a permittee.~~

Section 24. Section 335.187, Florida Statutes, is amended to read:

335.187 Unpermitted connections; existing access permits; nonconforming permits; modification and revocation of permits.—

(1) Unpermitted connections to the State Highway System in existence on July 1, 1988, which have been in continuous use for a period of 1 year or more shall not require the issuance of a permit and may continue to provide access to the State Highway System. However, ~~the department a-permitting authority~~ may require that a permit be obtained for such a connection if a significant change occurs in the use, design, or traffic flow of the connection ~~or of the state highway to which it provides access.~~ If a permit is not obtained, the connection may be closed pursuant to s. 335.1825(3).

(2) Access permits in effect on July 1, 1988, shall remain valid until modified or revoked. The department ~~permitting authority~~ may, after written notification and a hearing, as provided for in s. 120.60, modify or revoke an access permit granted prior to July 1, 1988, by requiring relocation, alteration, or closure of the connection if a significant change occurs in the use, design, or traffic flow of the connection.

(3) The department ~~permitting authority~~ may issue a nonconforming access permit after finding that to deny an access permit would leave the property without a reasonable means of access to the State Highway System ~~public roads of this state.~~ The department may ~~Every nonconforming access permit shall specify limits on the maximum vehicular use of the connection and may shall be conditioned on the availability of future alternative means of access for which access permits can be obtained.~~

(4) After written notice and the opportunity for a hearing, as provided for in s. 120.60, the department ~~permitting authority~~ may modify or revoke an access permit issued after July 1, 1988, by requiring relocation, alteration, or closure of an existing connection if a significant change occurs in the use, design, or traffic flow of the connection.

(5) *A means of reasonable access to an abutting state highway may not be denied to a property owner, except on the basis of safety or operational concerns as provided in s. 335.184.*

Section 25. Section 335.188, Florida Statutes, is amended to read:

335.188 Access management standards; access control classification system; criteria.—

(1) The department shall develop, adopt, and maintain an access control classification system for all routes on the State Highway System, the purpose of which shall be to provide for the implementation and continuing application of the provisions of this act.

(2) The principal component of the access control classification system shall be access management standards, the purpose of which shall be to provide specific ~~minimum~~ standards and criteria to be adhered to in the planning for and approval of access to roads on the State Highway System.

(3) The control classification system shall be developed consistent with the following:

(a) The department shall, no later than July 1, 1990, adopt rules setting forth procedures governing the implementation of the access control classification system required by this act. The rule shall provide for input from the entities described in paragraph (b) as well as for public meetings to discuss the access control classification system. Nothing in this act ~~affects shall affect~~ the validity of the department's existing or subsequently adopted rules concerning access to the State Highway System. Such rules shall remain in effect until repealed or replaced by the rules required by this act.

(b) The access control classification system shall be developed in cooperation with counties, municipalities, the state land planning agency, regional planning councils, metropolitan planning organizations, and other local governmental entities.

(c) The rule required by this section shall provide for notification by publication in a local newspaper of general circulation prior to a change in the assignment of a road segment to a specific access category. The ~~that~~ assignment or reassignment of a road segment to a specific access category shall be made in consideration of the following criteria:

1. The current functional classification ~~as well as potential future functional classification~~ of each road on the State Highway System;
2. Existing and projected traffic volumes;
3. Existing and projected state, local, and metropolitan planning organization transportation plans and needs;
4. Drainage requirements;
5. The character of lands adjoining the highway;
6. Local land-use plans and zoning, as set forth in comprehensive plans;
7. The type and volume of traffic requiring access;
8. Other operational aspects of access;
9. The availability of reasonable access to a state highway by way of county roads and city streets, ~~as applicable to the classification of such roadway segment only to a state highway as an alternative to a connection to a state highway;~~ and
10. The cumulative effect of existing and projected connections on the State Highway System's ability to provide for the safe and efficient movement of people and goods within the state.

(d) Access management standards shall include, but not be limited to, connection location standards, safety factors, design and construction standards, traffic control devices, and effective maintenance of the roads. The standards shall also contain ~~criteria minimum requirements~~ for the spacing of connections, intersecting streets, roads, and highways.

(e) An access control category shall be assigned to each segment of the State Highway System by July 1, 1993 ~~1992~~.

Section 26. Section 335.189, Florida Statutes, is repealed.

Section 27. Subsections (9), (11), (12), and (13) of section 335.20, Florida Statutes, are amended to read:

335.20 Local government cooperative assistance program.—

(9) Funding shall be provided to those projects in order of rank assigned pursuant to subsection (8) to the extent that funds are available. The department shall assign highest priority to those projects identified in the ~~adopted work program 1983-5 year transportation plan~~ of the department. ~~All projects on the State Highway System conducted through the provisions of this section shall be carried out by the department pursuant to all other law which may prevail.~~

~~(11) Any funds provided to a district pursuant to this section and not expended or committed for projects prior to April 1 of any year after 1987 shall be redistributed to each district which has fully expended or committed funds provided through this act. Funds provided to each such district through such redistribution shall be determined in the following manner:~~

~~(a) Fifty percent by the receiving district's population as a percentage of the population of all receiving districts; and~~

~~(b) Fifty percent by the receiving district's motor fuel and special fuel tax collections as a percentage of the motor fuel and special fuel tax collections of all receiving districts.~~

~~(11)(12)~~ The department shall provide a maximum of 50 percent of the cost of any project funded pursuant to this section. Local governments may use any revenue for matching purposes.

~~(12)(13)~~ Prior to entering an agreement to add or advance a project or project phase pursuant to this section, the department shall ~~first~~ update the estimated cost of the project or project phase and certify that the estimate is accurate and consistent with the amount estimated in the adopted work program. If the original estimate and the updated estimate vary, the department shall amend the adopted work program according to the amendatory procedures for the work program set forth in s. 339.135(7) ~~s. 339.135(8)~~. The amendment shall reflect all corresponding increases and decreases to the affected projects within the adopted work program.

Section 28. Subsections (1) and (4) of section 337.25, Florida Statutes, are amended to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

(1)(a) The department may purchase, lease, exchange, or otherwise acquire any land or buildings or other improvements, including personal property within such buildings or on such lands, necessary to secure or utilize transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System, on the State Park Road System, in a rail corridor, or in a transportation corridor designated by the department. Such property shall be held in the name of the state.

(b) The department may accept donations of any land or buildings or other improvements, including personal property within such buildings or on such lands with or without such conditions, reservations, or reverter provisions as are acceptable to the department. Such donations may be used as transportation rights-of-way or to secure or utilize transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System, on the State Park Road System, or in a transportation corridor designated by the department.

~~(c) If property that is held by a state or local governmental agency and used for nontransportation purposes is needed for transportation purposes, the department may compensate the agency for that property by providing functionally equivalent replacement property in exchange for that property. The providing of replacement facilities under this paragraph may be undertaken only with the agreement of the governmental entity affected.~~

(4) The department may sell, in the name of the state, any land, building, or other property, real or personal, which was acquired under the provisions of subsection (1) and which the department has determined is not needed for the construction, operation, and maintenance of a transportation facility and which is not located in a transportation corridor. When such a determination has been made, property may be disposed of in the following manner:

(a) If the value of the property is \$5,000 or less, the department may negotiate the sale.

(b) If the value of the property exceeds \$5,000, such property may be sold only by receipt of sealed competitive bids, after due advertisement, or by public auction held at the site of the improvement which is being sold. If as a result of an inquiry the department initiates the process for disposing of the property, the person making the inquiry ~~bears shall bear~~ the cost of an independent appraisal to determine the fair market value of the property. If the property is sold to someone other than such person, the cost of the independent appraisal ~~is shall be borne~~ by the purchaser; ~~and the person making the inquiry shall have the cost of the appraisal shall be refunded to the person making the inquiry him.~~ If, however, no purchase takes place, the person making the initial inquiry ~~forfeits shall forfeit~~ the sum paid by him for the independent appraisal. If, due to action of the department, the property is removed from eligibility for sale, the cost of any appraisal prepared shall be refunded to the person who paid for the appraisal.

(c) If, in the discretion of the department, public sale would be inequitable, properties may be sold by negotiation to the owner holding title to the property abutting the property to be sold, provided such sale is at a negotiated price not less than fair market value as determined by an

independent appraisal, the cost of which ~~is shall be~~ paid by the owner of the abutting land. If negotiations do not result in the sale of the property to the owner of the abutting land and the property is sold to someone else, the cost of the independent appraisal ~~is shall be~~ borne by the purchaser; ~~and the owner of the abutting land shall have~~ the cost of the appraisal ~~shall be~~ refunded to the owner of the abutting land ~~him~~. If, however, no purchase takes place, the owner of the abutting land ~~forfeits shall forfeit~~ the sum paid by him for the independent appraisal. If, due to action of the department, the property is removed from eligibility for sale, the cost of any appraisal prepared shall be refunded to the owner of the abutting land.

(d) If property acquired for use as a borrow pit is no longer needed, the department may sell such property to the owner of the parcel of abutting land from which the borrow pit was originally acquired, provided the sale is at a negotiated price not less than fair market value as determined by an independent appraisal, the cost of which ~~is shall be~~ paid by the owner of such abutting land.

(e) *If the department begins the process for disposing of the property on its own initiative, by negotiation under the provisions of paragraph (a), paragraph (c), paragraph (d), or paragraph (i), by receipt of sealed competitive bids, or by public auction under the provisions of paragraph (b) or paragraph (i), a department staff appraiser may determine the fair market value of the property by an appraisal.*

(f)(e) Any property which was acquired by a county or by the department using constitutional gas tax funds for the purpose of a right-of-way or borrow pit for a road on the State Highway System, State Park Road System, or county road system and which is no longer used or needed by the department may be conveyed without consideration to that county. The county may then sell such surplus property upon receipt of competitive bids in the same manner prescribed in this section.

(g)(f) If a property has been donated to the state for transportation purposes and the facility has not been constructed for a period of at least 5 years and no plans have been prepared for the construction of such facility and the property is not located in a transportation corridor, the governmental entity may authorize reconveyance of the donated property for no consideration to the original donor or his heirs, successors, assigns, or representatives.

(h)(g) If property is to be used for a public purpose, the property may be conveyed without consideration to a governmental entity.

(i)(h) If property was originally acquired specifically to provide replacement housing for persons displaced by federally assisted transportation projects, the department may negotiate for the sale of such property as replacement housing. As compensation, the state ~~must shall~~ receive no less than its investment in such properties or fair market value, whichever is lower. It is expressly intended that this benefit be extended only to those persons actually displaced by such project. Dispositions to any other persons must be for fair market value.

Section 29. Subsection (1) of section 337.26, Florida Statutes, is amended to read:

337.26 Execution and effect of instruments of sale, lease, or conveyance executed by department.—

(1) An instrument of sale, lease, or conveyance executed in the name of the department, and signed by the department's chief administrative officer of the district in which the property is located ~~or, if the property is located on the turnpike system, by the chief administrative officer of the Office of the Florida Turnpike~~, when such authority has been delegated by the head of the department, with the corporate seal of the department affixed thereto, is effective to pass the title or interest of the state in the property conveyed.

Section 30. Subsection (1) of section 337.27, Florida Statutes, is amended to read:

337.27 Exercise of power of eminent domain by department; procedure; title; cost.—

(1) The power of eminent domain is vested in the department to condemn all necessary lands and property, including rights of access, air, view, and light, whether public or private, for the purpose of securing and utilizing transportation rights-of-way, including, but not limited to, any lands reasonably necessary for securing applicable permits, areas necessary for management of access, borrow pits, drainage ditches, water

retention areas, rest areas, replacement access for landowners whose access is impaired due to the construction of a facility, and replacement rights-of-way for relocated rail and utility facilities; for existing, proposed, or anticipated transportation facilities on the State Highway System or State Park Road System; or in a transportation corridor designated by the department; or for the purposes of screening, relocation, removal, or disposal of junkyards and scrap metal processing facilities. The department ~~shall also have~~ the power to condemn any material and property necessary for such purposes. The secretary of the Department of Transportation may delegate the authority to execute eminent domain resolutions to the department's chief administrative officer of the district in which the property is located ~~or to the chief administrative officer of the Office of the Florida Turnpike if the property acquired is for a turnpike system project.~~

Section 31. Subsection (7) of section 337.273, Florida Statutes, is amended to read:

337.273 Transportation corridors.—

(7) Governmental entities are encouraged to cooperate in the protection and acquisition of transportation corridors by designation in each entity's plans and by ~~entrance entering~~ into a Transportation Corridor Protection and Acquisition Agreement. The agreement between the parties ~~must shall~~ specify the rights and responsibilities of the parties and must include, but is not limited to:

(a) A description of the corridor or corridors;

(b) The local government's commitment to protect existing and future rights-of-way from building encroachment;

(c) The appropriateness of establishing building setbacks from the corridor;

(d) The responsibilities of each party in the management of current and future access to the corridors;

(e) The responsibility of the owner of the system to be liable for claims and to defend against third-party legal challenges arising out of the corridor designations and the corridor agreements;

~~(f) The appropriateness of filing a map of reservation pursuant to statute for all or a portion of the corridors and designation of the entity to be responsible for filing the map; and~~

(f)(e) A reasonable estimate by the owner of the proposed facility of the period during which the ~~when said~~ facility will be constructed. The estimate ~~is shall~~ not be binding as far as requiring construction of the facility during that ~~at the~~ specific time period.

Section 32. Section 337.276, Florida Statutes, is amended to read:

337.276 Advanced acquisition of right-of-way.—

(1) The department shall identify right-of-way parcels for acquisition as far in advance of project construction as is practical, including access rights and right-of-way necessary for intersection improvements and grade separations, and shall include in its annual budget request specific allocations of funds from bond proceeds and other department revenues for advanced right-of-way acquisition in each fiscal year.

(2) The amounts allocated for advanced right-of-way acquisition shall be divided between the following programs:

(a) A program for acquiring right-of-way necessary to support project construction phases planned 3 to 4 years from the date of the acquisition.

(b) A program for acquiring right-of-way necessary for future transportation corridors for which construction phases are planned a minimum of 5 years from the date of acquisition. Priority shall be given to acquiring right-of-way for projects contained in the Florida Intrastate Highway System.

*This subsection does not prohibit the advancement of construction phases.*

(3) The Division of Bond Finance of the Department of General Services is authorized, in accordance with s. 215.605, to issue state bonds in an amount not to exceed a total of \$500 million on behalf of the department to finance right-of-way land acquisition for facilities that are not revenue producing. The proceeds from the sale of these bonds shall be allocated by the department only to fund advanced right-of-way projects

identified pursuant to the programs ~~specified contained~~ in subsection (2). No more than \$300 million of the bond proceeds may be allocated to fund projects identified pursuant to the program ~~specified contained~~ in paragraph (2)(a), and no more than \$200 million of the bond proceeds may be allocated to fund projects identified pursuant to the program ~~specified contained~~ in paragraph (2)(b).

(4)(a) *Notwithstanding subsections (2) and (3), the department may expend bond proceeds under this section to acquire right-of-way for a project in the department's adopted work program which does not fall within the parameters established in subsection (2), if:*

1. *The acquisition of the right-of-way is necessary to ensure the continued availability of previously donated right-of-way for the project;*

2. *The majority of the construction phase of a project for which right-of-way is acquired is to be financed by local or private funds; or*

3. *The project for which the right-of-way is acquired is the subject of an agreement between a local government and the department for the advancement of the construction phase of the project pursuant to s. 339.12.*

(b) *Any use of bond proceeds under this subsection must be specifically and separately identified in the tentative work program.*

Section 33. Subsection (2) of section 337.407, Florida Statutes, is amended to read:

**337.407 Regulation of signs and lights within rights-of-way.—**

(2)(a) The provisions of subsection (1) do not apply to benches or transit shelters, or to advertising displayed on benches or ~~and~~ shelters, installed within the right-of-way limits ~~on the right-of-way~~ of any municipal, county, or state road, except a limited access highway; ~~provided that such, which benches or shelters are have been erected for the comfort or convenience of the general public, or at designated stops on official bus routes; and provided further that~~ written authorization has been secured by a qualified private supplier ~~or suppliers~~ of such service from the appropriate ~~municipal city~~ or county government. ~~A municipality or county may authorize the installation, without public bid, of benches and shelters together with advertising displayed thereon, within the right-of-way limits of such roads within its jurisdiction. Any contract for the installation of benches or shelters or advertising on benches or shelters which was entered into before the effective date or this act without public bidding is ratified and affirmed, if such contract is otherwise valid. Such benches or transit shelters may not interfere with right-of-way preservation and maintenance.~~

(b) The provisions of subsection (1) do not apply to waste disposal receptacles of less than 110 gallons in capacity, or advertising on such receptacles, erected or placed on the right-of-way of any municipal, county, or state road, except a limited access highway; provided written authorization has been given to a qualified private supplier or suppliers of such service by the appropriate city or county government. Such receptacles may not interfere with right-of-way preservation and maintenance.

(c) The department has the authority to direct the immediate relocation or removal of any bench, transit shelter, or waste disposal receptacle which endangers life or property, ~~except that transit bus benches which are in existence on the effective date of this act and which do not comply with size requirements established by the department are authorized to remain in use for the remainder of their useful life.~~

(d) No bench, transit shelter, or waste disposal receptacle, or advertising thereon, shall be erected or so placed on the right-of-way of any road which conflicts with the requirements of federal law, regulations, or safety standards, thereby causing the state or any political subdivision the loss of federal funds. Competition among persons seeking to provide bench, transit shelter, or waste disposal receptacle services or advertising on such benches, shelters, or receptacles may be regulated, restricted, or denied by the appropriate local governmental entity consistent with the provisions of this section.

Section 34. Subsections (1), (4), and (6) of section 338.251, Florida Statutes, are amended to read:

**338.251 Toll Facilities Revolving Trust Fund.**—The Toll Facilities Revolving Trust Fund is hereby created for the purpose of encouraging the development and enhancing the financial feasibility of revenue-producing road projects undertaken by local governmental entities in a county or combination of contiguous counties.

(1) The department is authorized to advance funds for preliminary engineering, traffic and revenue studies, environmental impact studies, financial advisory services, engineering design, right-of-way map preparation, ~~other appropriate project-related professional services,~~ and advanced right-of-way acquisition to expressway authorities, counties, or other local governmental entities that desire to undertake revenue-producing road projects. ~~The department may not advance the funding of more than 60 percent of the final design costs until an acceptable plan to finance total project costs, including the reimbursement of outstanding trust fund advances, is approved by the department.~~

(4)(a) *Except as provided in paragraph (b), each advance pursuant to this section shall require repayment out of the initial bond issue revenue or, at the discretion of the governmental entity of the facility, repayment shall begin no later than 7 years after the date of the advance, provided repayment shall be completed no later than 12 years after the date of the advance. However, such election shall be made at the time of the initial bond issue, and, if repayment is not to be made out of the initial bond issue revenue during the time period referred to above, a schedule of such repayment shall be submitted to the department. All repayments by local governmental entities shall include interest charged at the average annual compound rate earned by the state treasury in the year preceding that of the current payment due. The department and the affected local governmental entities may agree to apply that interest rate retroactively to advances made during or after fiscal year 1985-1986.*

(b) *If the Office of the Florida Turnpike assumes a project for which advances were made, repayment of those advances may not require charging of interest. Repayment of those advances must begin no later than 7 years after the date on which the Office of the Florida Turnpike assumes the project and must be completed no later than 12 years after the date of assumption.*

(6) The department may advance funds sufficient to defray shortages in toll revenues of facilities receiving funds pursuant to this section for the first 5 years of operation, up to a maximum of \$5 million per year, to be reimbursed to this fund within 5 years of the last advance hereunder. All repayments by local governmental entities shall include interest charged at the average annual compound rate earned by the state treasury ~~in the year preceding that of the current payment due.~~ Any advance under this provision shall require specific appropriation by the Legislature.

Section 35. Section 339.08, Florida Statutes, is amended to read:

**339.08 Use of moneys in State Transportation Trust Fund.—**

(1) The department shall by rule provide for the expenditure of the moneys in the State Transportation Trust Fund accruing to the department, in accordance with its annual budget.

(2) Such rules shall provide that the use of such moneys be restricted to the following purposes:

(a) To pay administrative expenses of the department, including administrative expenses incurred by the several state transportation districts, ~~excluding administrative expenses of commuter rail authorities that do not operate rail service.~~

(b) To pay the cost of construction of the State Highway System, including amounts necessary to match federal-aid funds for such purposes. The department may also match federal-aid highway funds allocated to the county road and city street systems and ~~may is authorized to~~ contract for and administer such federal-aid projects in cooperation with local officials in accordance with federal regulations.

(c) To pay the cost of maintaining the State Highway System.

(d) To pay the cost of public transportation projects in accordance with chapter 341 and ss. 332.003-332.007 and to make ~~such~~ other lawful expenditures of the department for ~~the payment of which no other funds are not may be specified.~~

(e) To reimburse counties or municipalities for expenditures ~~made on~~ projects in the State Highway System as authorized by s. 339.12(4) upon legislative approval.

(f) To pay the cost of economic development transportation projects in accordance with s. 288.063.

Notwithstanding any other provision of law, the department may match any federal-aid highway funds allocated for any other transportation purpose.

(3) ~~After June 30, 1985,~~ Unless specifically provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act, ~~no~~ moneys in the State Transportation Trust Fund may ~~not~~ be used to fund the operational or capital outlay cost for any correctional facility of the Department of Corrections. The department shall, however, enter into contractual arrangements with the Department of Corrections for these specific maintenance functions ~~that which~~ can be performed effectively by prison inmates under the supervision of Department of Corrections personnel with technical assistance ~~being~~ provided by the department. The cost of such contracts ~~may~~ shall not exceed the cost that would be incurred by the department if such functions were to be performed by its personnel or by contract with another entity unless, notwithstanding cost, the department can clearly demonstrate that, for reasons of expediency or efficiency, it is in the best interests of the department to contract with the Department of Corrections.

(4) ~~Funds remaining in the Advanced Construction Interstate Revolving Trust Fund as of July 1, 1985, including investments and interest earnings, shall be transferred to the State Transportation Trust Fund with priority use assigned to completion of the Interstate Highway System. However, any excess funds may be used for general transportation purposes, consistent with the department's legislatively approved objectives. Prior to such utilization, the department's comptroller shall certify that adequate funds are available to assure expeditious completion of the Interstate Highway System and to award all such contracts by 1990.~~

Section 36. Section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Fiscal year" of the department means the period beginning July 1 of each year and ending June 30 of the succeeding year. Such fiscal year constitutes a budget year for all operating funds of the department.

(b) "District work program" means the 5-year listing of transportation projects planned for each fiscal year which is prepared by *the Office of the Florida Turnpike* and each of the ~~seven~~ districts of the department and which must be submitted to the central office for review and development of the tentative work program.

(c) "Tentative work program" means the 5-year listing of all transportation projects planned for each fiscal year which is developed by the central office based on the district work programs.

(d) "Adopted work program" means the 5-year work program adopted by the department as provided in subsection (5)(6).

(2) SUBMISSION OF LEGISLATIVE BUDGET REQUEST.—The department shall file the legislative budget request in the manner required by chapter 216, setting forth the department's proposed revenues and expenditures for operational and fixed capital outlay needs to accomplish the objectives of the department in the ensuing fiscal year. The right-of-way, construction, preliminary engineering, maintenance, and all grants and aids programs of the department shall be set forth only in program totals. The legislative budget request must include a balanced 36-month forecast of cash and expenditures and a 5-year finance plan. The legislative budget request shall be amended to conform to the tentative work program ~~that shall be submitted annually by January 15.~~ The department may amend its legislative budget request and the tentative work program based on the most recent revenue estimate by the Transportation Estimating Conference and the most recent federal aid apportionments.

(3) NATURE AND SCOPE OF THE TENTATIVE AND ADOPTED WORK PROGRAMS.—

(a) The tentative and adopted work programs required by subsections (4) and (5)(6) shall be based on a complete, balanced financial plan for the State Transportation Trust Fund and the other funds managed by the department. The tentative and adopted work programs shall set forth the proposed commitments and planned expenditures, respectively, of the department classified by major program and fixed capital appropriation categories to accomplish the objectives of the department included in the program and resource plan of the Florida Transportation Plan required in s. 339.155(6)(a)6.

(b) The tentative and adopted work programs for the State Transportation Trust Fund and other funds managed by the department, except as otherwise provided by law, must be so planned as to deplete the estimated resources of each fund for the fiscal year. An emergency reserve may be requested in the legislative budget request for the purpose of performing emergency work necessary during the fiscal year in order to prevent the stoppage of travel over any transportation facility over which the department has jurisdiction and control.

(c) No anticipated funds estimated to be received from various federal-aid acts of Congress shall be budgeted in excess of the amount which may be earned by the amount of state funds set aside to match such federal aid; and the state funds thus set aside to match federal-aid funds shall be used only for such matching purposes. The department shall, prior to the preparation of the tentative work program, ascertain the amount of apportionments of federal-aid funds which are estimated to be available to the department for expenditure in the fiscal years for which the tentative work program is prepared; and the department shall budget sufficient funds for matching purposes.

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(a) To assure that no district or county is penalized for local efforts to improve the State Highway System, the department shall, for the purpose of developing a tentative work program, allocate funds for new construction to the various districts based on equal parts of population and motor fuel tax collections. Funds for resurfacing, bridge repair and rehabilitation, bridge fender system construction or repair, public transit projects except public transit block grants as provided in s. 341.052, and other programs with quantitative needs assessments shall be allocated based on the results of these assessments. The department ~~may~~ shall not transfer any funds allocated to a district under this paragraph to any other district except as provided in subsection (7)(8). Funds for public transit block grants shall be allocated to the districts pursuant to s. 341.052.

(b)1. A tentative work program, including the ensuing fiscal year and the successive 4 fiscal years, shall be prepared for the State Transportation Trust Fund and other funds managed by the department, unless otherwise provided by law. The tentative work program shall be based on the district work programs and shall set forth all projects by phase to be undertaken during the ensuing fiscal year and planned for the successive 4 fiscal years. The total amount of the liabilities accruing in each fiscal year of the tentative work program ~~may~~ shall not exceed the revenues available for expenditure during the respective fiscal year based on the cash forecast for that respective fiscal year.

2. The tentative work program shall be developed in accordance with the program and resource plan of the Florida Transportation Plan required in s. 339.155(6)(a)6. and ~~must~~ shall comply with the program funding levels contained in the program and resource plan. ~~The department shall not in any year include any project or allocate any funds to a program or project in the tentative work program that is contrary to existing law for that particular year.~~

3. The tentative work program ~~must~~ shall specifically identify advanced right-of-way acquisition projects and ~~must separately allocate~~ shall contain segregated allocations of funds for advanced right-of-way acquisition phases in each fiscal year, as provided in s. 337.276. Each right-of-way phase that is to be funded through these programs shall be specifically identified in the work program, and the year, *if known*, in which construction utilizing the right-of-way is projected to begin shall be identified.

4. The department ~~may~~ is authorized to include in the tentative work program proposed changes to the programs contained in the previous work program adopted pursuant to subsection (5)(6); however, the department shall, ~~to the maximum extent feasible,~~ minimize changes and adjustments that affect the scheduling of project phases in the 4 common fiscal years contained in the previous adopted work program and the tentative work program. The department, in the development of the tentative work program, shall advance by 1 fiscal year all projects included in the second year of the previous year's adopted work program, unless the secretary specifically determines that it is necessary, for specific reasons, to reschedule or delete one or more projects from *that said year*. Any Such changes and adjustments shall be clearly identified, and reflect the effect on the 4 common fiscal years contained in ~~both~~ the previous adopted work program and the tentative work program *shall be shown*.



It is the intent of the Legislature that the first 3 years of the adopted work program stand as the commitment of the state to undertake transportation projects that local governments may rely on for planning purposes and in the development and amendment of the capital improvements elements of their local government comprehensive plans.

5. The tentative work program ~~must~~ *shall* include a balanced 36-month forecast of cash and expenditures and a 5-year finance plan supporting the tentative work program.

(c)1. For purposes of this section, the board of county commissioners shall serve as the metropolitan planning organization in those counties which are not located in a metropolitan planning organization and shall be involved in the development of the district work program to the same extent as ~~a~~ the metropolitan planning organization.

2. The district work program shall be developed cooperatively from the outset with the various metropolitan planning organizations of the state and ~~shall~~ include, to the maximum extent feasible, the transportation improvement programs of metropolitan planning organizations, and changes to the improvement programs ~~that~~ *which* have been submitted to the department at least 120 ~~90~~ days prior to the submission of the tentative work program to the Florida Transportation Commission.

3. ~~Prior to submittal of the district work program to the central office, the district shall provide the affected a metropolitan planning organization with written justification for any project proposed to be rescheduled or deleted no less than 14 days prior to the rescheduling or deletion of any project from the district work program which project is part of the metropolitan planning organization's transportation improvement program and is contained in the last 4 years of the previous adopted work program. By no later than 14 days after submittal of the district work program to the central office, the affected metropolitan planning organization may file an objection to such rescheduling or deletion. When such an objection is filed with the secretary, the such rescheduling or deletion shall not be included in the district work program unless the inclusion of such rescheduling or deletion is specifically approved by the secretary. The Florida Transportation Commission shall include such objections in its evaluation of the tentative work program only when the secretary has approved the rescheduling or deletion.~~

(d) Prior to the submission of the district work program to the central office, each district office shall hold a public hearing in at least one urbanized area in the district and shall make a presentation at a meeting of each metropolitan planning organization in the district to determine the necessity of making any changes to projects included or to be included in the district work program and to hear requests for new projects to be added to, or existing projects to be deleted from, the district work program. However, the district and metropolitan planning organization shall, ~~to the maximum extent feasible~~, minimize changes to, deletions from, or adjustments to projects or project phases contained in the 4 common years of the previous adopted work program and the district work program. The district shall provide the metropolitan planning organization with a written explanation for any project which is contained in the metropolitan planning organization's transportation improvement program and which is not included in the district work program. The metropolitan planning organization may request in writing to the appropriate district secretary further consideration of any specific project not included or not adequately addressed in the district work program. The district secretary shall acknowledge and review all such requests prior to the submission of the district work program to the central office and shall forward a copy of such requests to the secretary and the Florida Transportation Commission. The commission shall include such requests in its evaluation of the tentative work program.

(e) Following submission of each district work program to the central office, the department shall develop the tentative work program based on the district work programs, review the individual district work programs for compliance with the work program instructions prepared by the department, and ensure that the tentative work program complies with the requirements of paragraph (b).

(f) The central office shall submit a preliminary copy of the tentative work program to the Executive Office of the Governor, the legislative appropriations committees, the Florida Transportation Commission and the Department of Community Affairs at least 14 ~~30~~ days prior to the convening of the regular legislative session submission to the Governor and Legislature. The department shall provide the Department of Community Affairs with copies of the preliminary tentative work program for

~~review as soon as feasible. Prior to the statewide public hearing required by paragraph (g), the Department of Community Affairs shall transmit to the Florida Transportation Commission a list of those projects and project phases contained in the tentative work program which are identified as being inconsistent with approved local government comprehensive plans. For urbanized areas of metropolitan planning organizations, the said list may shall not contain any project or project phase that which is scheduled in a transportation improvement program unless such inconsistency has been previously reported to the affected metropolitan planning organization. The commission shall consider the said list as part of its evaluation of the tentative work program conducted pursuant to s. 20.23.~~

(g) *The Florida Transportation Commission shall conduct a statewide public hearing on the tentative work program and shall advertise the time, place, and purpose of the hearing in the Administrative Weekly at least 7 days prior to the hearing. As part of the statewide public hearing, the commission shall, at a minimum:*

1. *Conduct an in-depth evaluation of the tentative work program as required in s. 20.23 for compliance with applicable laws and departmental policies; and*

2. *Hear all questions, suggestions, or other comments offered by the public.*

*By no later than 14 days after the regular legislative session begins, the commission shall submit to the Executive Office of the Governor and the legislative appropriations committees a report that evaluates the tentative work program for:*

a. *Financial soundness;*

b. *Stability;*

c. *Production capacity;*

d. *Accomplishments, including compliance with program objectives in s. 334.046;*

e. *Compliance with approved local government comprehensive plans;*

f. *Objections and requests by metropolitan planning organizations;*

g. *Policy changes and effects thereof;*

h. *Identification of statewide or regional projects; and*

i. *Compliance with all other applicable laws.*

(h) *Following evaluation by the Florida Transportation Commission, the department shall submit the tentative work program to the Executive Office of the Governor and the legislative appropriations committees no later than 14 days after the regular legislative session begins.*

~~(g) The tentative work program prepared under the provisions of this subsection following evaluation by the Florida Transportation Commission shall be submitted to the Executive Office of the Governor and the legislative appropriations committees no later than January 15 of each year.~~

~~(h) The department shall submit with its tentative work program a report that includes:~~

1. ~~How its legislative budget request and tentative work program comply with the program objectives set forth in s. 334.046 and compare to the needs quantified pursuant to s. 339.155(5).~~

2. ~~How commitments from the prior fiscal year and the projection of the current fiscal year comply with those same program objectives.~~

3. ~~An analysis of the variance between the dollars and numbers of projects committed in the most recently completed fiscal year and the adopted work program for that year and of the variance in projections for the current fiscal year and the current year of the adopted work program. The analysis shall include the number and dollar amount of projects committed or projected to be committed in each year that were not in the adopted work program.~~

4. ~~An analysis of the variance in the actual and planned construction contract time and the planned construction contract time for the most recently completed 6 quarters.~~



5. ~~A comparison of the department's manpower utilization and the accomplishments of the department for the current fiscal year and the last completed fiscal year.~~

6. ~~A summary of work program categories to show the amounts programmed in each appropriation category by district.~~

7. ~~A manpower report that indicates the department's current production capacity and that projects the production capacity needed for each year of the tentative work program and for compliance with paragraph (j). The report shall indicate the portion of production that is to be performed by department personnel and the portion that is to be performed by consultants.~~

8. ~~A statement of proposed program changes and related policy changes and the effects of such changes on the programs in the tentative work program.~~

9. ~~A project comparison, by project phase and cost, for the 4 common years between the tentative work program and the previous work program adopted pursuant to subsection (6).~~

10. ~~A list of projects in the tentative work program organized and presented:~~

- a. ~~By fiscal year;~~
- b. ~~By department district;~~
- c. ~~By county;~~
- d. ~~By project phase; and~~
- e. ~~By fixed capital appropriation category and fund.~~

11. ~~A summary of funding allocations and right-of-way phases by district and by county for each fiscal year in the tentative work program that are part of the advanced right-of-way acquisition programs set forth in s. 337.276. The report shall separately identify right-of-way phases for projects which are future transportation corridors to be acquired at least 5 years in advance of construction.~~

(i) ~~Prior to or during each regular session of the Legislature, the department shall make a presentation of the tentative work program and the report required in paragraph (h) as submitted to the Executive Office of the Governor and the Legislature, to the transportation committees of the Senate and House of Representatives.~~

(i)1.(j) ~~The department shall develop and maintain at all times a list of projects on which construction could begin that could be made production-ready within the next 2 years if biennium to use additional sources of revenue become available. The list must shall consist of projects defining programs for the interstate system; arterial highway construction; noninterstate road and bridge rehabilitation and replacement; highway preservation; traffic operations; and public transportation; and major new road and bridge construction. Program amounts shall equal approximately 50 percent of the corresponding funded program in the first 2 years of the tentative work program, except that higher limits may be established by the department to accommodate anticipated federal funding actions. Program amounts must shall include all project phase costs required to complete construction, including construction engineering inspection at present cost phases. If any of these stated programs is not funded in the tentative work program, the department may determine an appropriate program amount not to exceed \$50 million. Projects within each program shall be placed in order of priority prioritized based on need. The project list is shall be independent of the tentative work program, except that funded projects in later years of such program may be included in the project list and advanced to an earlier year if justified by priority. The list shall be submitted to the Executive Office of the Governor and the legislative appropriations committees no later than 14 days after the date on which the regular legislative session begins January 15 of each year.~~

2. ~~The department shall maintain at all times a list of projects on which construction could begin immediately if additional sources of revenue become available. The adopted work program shall be protected and systematically advanced as revenue becomes available. The list of projects may include not more than 50 percent of the annual construction program. The list must include state and federal projects.~~

*Preconstruction activity by consultants and by department staff must provide a reasonable supply of projects on which construction could*

*begin within the next 2 years if additional sources of revenue become available. The amount of preconstruction activity shall be determined by the department based on financing, staffing, and other resources.*

(j)(k) ~~Beginning with the legislative budget request for fiscal year 1989-1990, The department shall develop proposals to assist local governments with their unfunded transportation needs. The department, in conjunction with the Department of Community Affairs, shall develop criteria for a local government cooperative program to plan, design, or construct transportation projects as required pursuant to chapter 163 the Growth Management Act, but which cannot be funded with local government revenues. The department shall provide a list of projects that qualify under these criteria to the Legislature for consideration. This list of projects shall be placed in order of priority prioritized based upon the criteria developed pursuant to this paragraph and does shall not reduce funds requested by the department under the other provisions of this chapter.~~

(5) ~~STATEWIDE PUBLIC HEARING ON THE TENTATIVE WORK PROGRAM. The Florida Transportation Commission shall appoint a time and place for a statewide public hearing on the tentative work program, at which time it shall hear all questions, suggestions, or other comments offered by the public. The commission shall advertise the time, place, and purpose of the hearing in the Administrative Weekly at least 7 days prior to the hearing.~~

(5)(6) ~~ADOPTION OF THE WORK PROGRAM.—The original approved budget for operational and fixed capital expenditures for the department shall be the Governor's budget recommendation and the first year of the tentative work program, as both are amended by the General Appropriations Act and any other act containing appropriations. In accordance with the appropriations act, the department shall, prior to the beginning of the fiscal year, adopt a final work program which shall only include the original approved budget for the department for the ensuing fiscal year together with any roll forwards approved pursuant to paragraph (6)(c)(7)(e) and the portion of the tentative work program for the following 4 fiscal years revised in accordance with the original approved budget for the department for the ensuing fiscal year together with said roll forwards. The adopted work program may include only those projects submitted as part of the tentative work program developed under the provisions of subsection (4) plus any projects which are separately identified by specific appropriation in the General Appropriations Act and any roll forwards approved pursuant to paragraph (6)(c)(7)(e). However, any transportation project of the department which is identified by specific appropriation in the General Appropriations Act shall be deducted from the funds annually distributed to the respective district pursuant to paragraph (4)(a). In the event that additional funds are appropriated in excess of those required to fund the projects contained in the tentative work program developed pursuant to this subsection, such funds shall be utilized only on projects developed under paragraph (4)(i)(j). In addition, the department shall not in any year include any project or allocate funds to a program in the adopted work program that is contrary to existing law for that particular year. Projects shall not be undertaken unless they are listed in the adopted work program.~~

#### (6)(7) EXECUTION OF THE BUDGET.—

(a) ~~The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year.~~

(b) ~~In the operation of the State Transportation Trust Fund, the department shall have on hand at the close of business, which closing shall not be later than the 10th calendar day of the month following the end of each quarter of the fiscal year, an available cash balance (which shall include cash on deposit with the treasury and short-term investments of the department) equivalent to not less than \$50 million, or 5 percent of the unpaid balance of all State Transportation Trust Fund~~

obligations at the close of such quarter, whichever amount is less. In the event that this cash position is not maintained, no further contracts or other fund commitments shall be approved, entered into, awarded, or executed until the cash balance, as defined above, has been regained.

(c) Notwithstanding the provisions of ss. 216.301(3) and 216.351, any unexpended balance remaining at the end of the fiscal year in the appropriations to the department for special categories; aid to local governments; lump sums for project phases which are part of the adopted work program, and for which contracts have been executed or bids have been let; and for right-of-way land acquisition and relocation assistance for parcels from project phases in the adopted work program for which appraisals have been completed and approved, may be certified forward as fixed capital outlay under the provisions of s. 216.301(2)(a). Any project phases in the adopted work program not certified forward under the provisions of s. 216.301(2)(a) shall be available for roll forward for the next fiscal year of the adopted work program. Spending authority associated with such project phases may be rolled forward to the next fiscal year pursuant to paragraph (f). Any project phase certified forward for which bids have been let but subsequently rejected shall be available for roll forward in the adopted work program for the next fiscal year. Spending authority associated with such project phases may be rolled forward into the current year from funds certified forward pursuant to paragraph (f). The amount certified forward may include contingency allowances for right-of-way acquisition and relocation, asphalt and petroleum product escalation clauses, and contract overages, which allowances shall be separately identified in the certification detail. Right-of-way acquisition and relocation and contract overages contingency allowances shall be based on documented historical patterns. These contingency amounts shall be incorporated in the certification for each specific category, but when a category has an excess and another category has a deficiency, the Executive Office of the Governor is authorized to transfer the excess to the deficient account.

(d) The department shall allocate resources provided in the General Appropriations Act to the districts prior to July 31 of each year. The allocation shall be promptly reported to the Executive Office of the Governor and the legislative appropriations committees, and all subsequent amendments shall be reported promptly to the secretary of the department. The secretary shall require each district secretary to submit a monthly report on the status of his budgets which shall indicate, by major budget category within each budget entity, the monthly expenditure, the cumulative expenditures to date, and the remaining balance of the regional allocations. Quarterly summaries of these reports shall be provided to the Executive Office of the Governor and the legislative appropriations committees.

(e) This subsection does not apply to any bonds issued on behalf of the department pursuant to the State Bond Act.

(f) Notwithstanding the provisions of ss. 216.181(1), 216.292, and 216.351, the Executive Office of the Governor may amend that portion of the department's original approved fixed capital outlay budget which comprises the work program pursuant to subsection (7)(g). Increase in spending authority in paragraph (c) shall be limited to amounts of unexpended balances by appropriation category.

#### (7)(g) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(a) Notwithstanding the provisions of ss. 216.181(1), 216.292, and 216.351, the adopted work program may be amended only pursuant to the provisions of this subsection.

(b) The department ~~may~~ *shall* not transfer any funds for any project or project phase between department districts. However, a district secretary may agree to a temporary loan of funds to another district, ~~if provided that:~~

1. ~~The Such~~ funds are used solely to maximize the use or amount of funds ~~federal aid~~ available to the state;

2. ~~The Such~~ loan agreement is executed in writing and is signed by the district secretaries of the respective districts;

3. Repayment of the ~~such~~ loan is to be made *within 3 years after the date on which the agreement was entered into* ~~no later than the end of the next fiscal year; and~~

4. The adopted work program of the district loaning the ~~such~~ funds *would not be substantially impaired if the loan were made* ~~does not have the ability, according to the district secretary, to utilize such funds during the current fiscal year; and~~

~~The 5.—Such loan constitutes shall constitute~~ an amendment to the adopted work program and ~~is shall be~~ subject to the procedures specified in paragraph (c).

(c) The department may amend the adopted work program to transfer appropriations within the department, except that the following amendments shall be subject to the procedures in paragraph (d):

1. Any amendment which deletes any project or project phase;

2. Any amendment which adds a project estimated to cost over \$150,000;

3. Any amendment which advances or defers *to another fiscal year for a period of 6 months or more*, a right-of-way phase, a construction phase, or a public transportation project phase estimated to cost over \$500,000, *except an amendment advancing or deferring a phase for a period of 90 days or less; however, any such phase may not be deferred for more than 1 year during any fiscal year of the department from the year in which it is scheduled in the adopted work program; or*

4. Any amendment which advances or defers *to another fiscal year for a period of 6 months or more*, any preliminary engineering phase or design phase estimated to cost over \$150,000, *except an amendment advancing or deferring a phase for a period of 90 days or less; however, any such phase may not be deferred for more than 1 year during any fiscal year of the department from the year in which it is scheduled in the adopted work program.*

(d)1. Whenever the department proposes any amendment to the adopted work program, which amendment is defined in subparagraphs 1., 2., 3., or 4. of paragraph (c), it shall submit the proposed amendment to the Governor for approval and shall immediately notify the chairmen of the legislative appropriations committees, the chairmen of the legislative transportation committees, each member of the Legislature who represents a district affected by the proposed amendment, each metropolitan planning organization affected by the proposed amendment, and each unit of local government affected by the proposed amendment. Such proposed amendment shall provide a complete justification of the need for the proposed amendment.

2. The Governor shall not approve a proposed amendment until 14 days following the notification required in subparagraph 1.

3. If either of the chairmen of the legislative appropriations committees or the President of the Senate or the Speaker of the House of Representatives objects in writing to a proposed amendment within 14 days following notification and specifies the reasons for such objection, the Governor shall disapprove the proposed amendment or shall submit the proposed amendment to the Administration Commission. The proposed amendment may be approved by the Administration Commission by a two-thirds vote of the members present with the Governor voting in the affirmative. In the absence of approval by the commission, the proposed amendment shall be automatically disapproved.

(e) Notwithstanding the requirements in paragraph (d) and ss. 216.177(2) and 216.351, the secretary may request the Executive Office of the Governor to amend the adopted work program when an emergency exists, as defined in s. 252.34(2), and the emergency relates to the repair or rehabilitation of any state transportation facility. The Executive Office of the Governor may approve the amendment to the adopted work program and amend that portion of the department's approved budget in the event that the delay incident to the notification requirements in paragraph (d) would be detrimental to the interests of the state. However, the department shall immediately notify the parties specified in paragraph (d) and shall provide such parties written justification for the emergency action within 7 days of the approval by the Executive Office of the Governor of the amendment to the adopted work program and the department's budget. In no event may the adopted work program be amended under the provisions of this subsection without the certification by the comptroller of the department that there are sufficient funds available pursuant to the 36-month cash forecast and applicable statutes.

(8)(g) PERFORMANCE MONITORING.—The department shall continuously monitor and annually report to the Executive Office of the Governor and the Legislature on the compliance with and accomplishment of the adopted work program compared to the guidelines of the program and resource plan of the Florida Transportation Plan required in s. 339.155(6)(a)6.

Section 37. Subsections (6) and (7) of section 334.045, Florida Statutes, are amended to read:

334.045 Transportation performance and productivity standards; development; measurement; application.—

(6) Beginning October 1, 1992, the department shall also be evaluated annually for performance and productivity based upon the department's fiscal year ending the previous June 30. The commission shall, by a majority vote, make findings regarding the standards, measures, and goals applicable to the department as soon thereafter as practicable. In the event the department fails to meet the assigned performance and productivity standards, measures, or goals, funding authorized to the department from the State Transportation Trust Fund for the current fiscal year shall not exceed the funding level from the trust fund for fiscal year 1989-1990, except as necessary pursuant to subsection (7). In such event, the department shall proceed to amend the adopted work program pursuant to s. 339.135(7) ~~s. 339.135(9)~~, except that all amendments, as defined in s. 339.135(7)(c) ~~s. 339.135(8)(e)~~, necessary to the adopted work program to accomplish such reduction shall be submitted to the Governor for approval as individual amendments which shall be subject to the provisions of s. 339.135(7)(d) ~~s. 339.135(8)(d)~~. Notice for said amendments shall be provided for each amendment, as defined in s. 339.135(7)(c) ~~s. 339.135(8)(e)~~, which is a component of the amendment necessary to accomplish said reduction pursuant to s. 339.135(7)(d) ~~s. 339.135(8)(d)~~.

(7) Funds necessary for the following shall not be subject to the reductions required in subsection (6):

(a) Any funds necessary to honor construction and consultant contracts entered by the department prior to the determination of the commission that the department failed to meet its assigned productivity and performance objectives for the previous fiscal year;

(b) Any funds necessary to qualify for federal matching funds that, if a reduction were made, would be irrevocably lost to the state;

(c) Any funds necessary to resolve any emergency requiring amendment to the adopted work program pursuant to s. 339.135(7)(e) ~~s. 339.135(8)(e)~~;

(d) Any funds necessary to honor any supplemental agreement or change orders on projects and project phases related to contracts entered by the department prior to the determination of the commission that the department failed to meet its assigned productivity and performance objectives for the previous fiscal year;

(e) Any funds necessary to pay any judgment in any action brought by or against the department pursuant to chapter 73 or chapter 74, or settlement entered relating to the acquisition of right-of-way prior to the determination of the commission that the department failed to meet its assigned productivity and performance objectives for the previous fiscal year;

(f) Any funds, including any bond proceeds or funds appropriated to the Florida Intrastate Highway System, necessary to any turnpike project authorized in s. 338.2275;

(g) Any proceeds from any bonds issued pursuant to s. 17, Art. VII of the State Constitution;

(h) Any funds necessary to pay debt service on any bonds authorized pursuant to chapter 338 or s. 17, Art. VII of the State Constitution; and

(i) Any funds necessary for projects in the first 3 years of the adopted work program included in the capital improvements element of an approved local government comprehensive plan.

Section 38. Subsection (4) of section 339.12, Florida Statutes, is amended to read:

339.12 Aid and contributions by governmental entities for rights-of-way, construction, or maintenance of roads in State Highway System; federal aid.—

(4)(a) Prior to accepting the contribution of road bond proceeds, time warrants, or cash for which reimbursement is sought, the department shall enter into agreements with the governing body of the governmental entity for the project or project phases of the roads and bridges in accordance with specifications agreed upon between the department and the governing body of the governmental entity. The department in no instance is to receive from such governmental entity an amount in excess

of the actual cost of the project or project phase of such state roads. By specific provision in the written agreement between the department and the governing body of the governmental entity, the department may agree to reimburse the governmental entity for the actual amount of the bond proceeds, time warrants, or cash used on a project or project phases in the State Highway System that are not revenue producing and are contained in the department's adopted work program. Subject to appropriation of funds by the Legislature, the department may commit state funds for reimbursement of such projects or project phases in the State Highway System. Reimbursement to the governmental entity for such a project or project phase must be made from funds appropriated by the Legislature, and reimbursement for the cost of the project or project phase is to begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Funds advanced pursuant to this section, which were originally designated for transportation purposes and so reimbursed to a county or municipality, shall be used by the county or municipality for any transportation expenditure authorized under s. 336.025(7). Also, cities and counties may receive funds from persons, and reimburse those persons, for the purposes of this section. Such persons may include, but are not limited to, those persons defined in s. 607.108(1)(l).

(b) Prior to entering an agreement to advance a project or project phase pursuant to this subsection and subsection (5), the department shall first update the estimated cost of the project or project phase and certify that the estimate is accurate and consistent with the amount estimated in the adopted work program. If the original estimate and the updated estimate vary, the department shall amend the adopted work program according to the amendatory procedures for the work program set forth in s. 339.135(7) ~~s. 339.135(9)~~. The amendment shall reflect all corresponding increases and decreases to the affected projects within the adopted work program.

Section 39. Subsection (2) of section 339.136, Florida Statutes, is amended to read:

339.136 Improved Tentative Work Program, 1990-1995; development, approval, and amendment.—

(2) Upon approval of the improved tentative work program, 1990-1995, by the Florida Transportation Commission, the department shall proceed to amend the adopted work program pursuant to s. 339.135 (7) ~~s. 339.135(9)~~, except that all amendments, as defined in s. 339.135(7)(c) ~~s. 339.135(8)(e)~~, necessary to the adopted work program to implement the improved tentative work program shall be submitted to the Governor for approval as individual amendments which shall be subject to the provisions of s. 339.135(7)(d) ~~s. 339.135(8)(d)~~. The provisions of s. 339.135(7)(d)3. ~~s. 339.135(8)(d)3.~~ shall apply to each amendment, as defined in s. 339.135(7)(c) ~~s. 339.135(8)(e)~~, which is a component of the amendment submitted to the Governor for approval.

Section 40. Subsection (3) of section 334.046, Florida Statutes, is amended to read:

334.046 Department program objectives.—

(3) *By no later than 14 days prior to the convening of each regular legislative session, the department shall issue a report showing how commitments from the prior fiscal year, estimates of the current fiscal year, and projections for the first year of the tentative work program comply with the program objectives set forth in subsection (1). The department in its budget request shall report how its request complies with the program objectives set forth in subsection (1) and how commitments from the prior fiscal year and the projection of the current fiscal year comply with those same program objectives.*

Section 41. Paragraph (a) of subsection (5) and subsection (7) of section 339.155, Florida Statutes, are amended to read:

339.155 Transportation planning.—

(5) **SYSTEMATIC PLANNING PROCESS.**—The department shall institute and publish a systematic planning process for considering those factors to be used in developing the statewide transportation plan pursuant to subsection (2) so that any major transportation facility is so planned that it will function as an integral part of the overall plan for local, regional, and state development. The process shall:

(a) Provide the necessary framework to guide transportation planning in the state, consistent with the state comprehensive plan. ~~In order to assist~~ The department *shall be assisted* in the systematic planning

process by, there is created the Metropolitan Planning Organization Advisory Council Committee. The committee shall be composed of a representative from each metropolitan planning organization in the state. Each metropolitan planning organization shall select one representative to serve on the committee and shall notify the department of such selection or any change in representation. The advisory committee shall, by majority vote, make recommendations to the department concerning the statewide transportation plan. The department shall formally document actions taken in response to such recommendations. The advisory committee will augment, and not supplant, the role of individual metropolitan planning organizations in the cooperative transportation planning process.

(7) PROCEDURES FOR PUBLIC PARTICIPATION IN TRANSPORTATION PLANNING.—

(a) The department shall, pursuant to its rules, hold hearings for metropolitan statistical areas and areas projected by the department to become metropolitan statistical areas within 10 years, as follows:

1. *An annual systems* A planning hearing, at which time the factors specified included in subsection (2) are shall be presented for discussion and comment. However, a hearing held on a metropolitan urban area transit study or on an equivalent comprehensive transportation planning study satisfies shall satisfy the planning hearing requirement if it is so stated in the public notice of the study hearing.

2. A facility and site or corridor hearing, at a time prior to the selection of the type or types of major transportation facility or facilities to be constructed and prior to the selection of the site or corridor of the proposed facility.

3. A design hearing, at a time after the selection of, and prior to the commitment by the department to, a specific design proposal for the facility or facilities.

(b) These public hearings shall be so conducted as to provide an opportunity for effective participation by interested persons in the process of transportation planning, and site and route selection, and in the specific location and design of transportation facilities. The various factors involved in the decision or decisions and any alternative proposals shall be clearly presented so that the persons attending the hearing may present their views relating to the decision or decisions that which will be made.

(c) Opportunity for public hearings:

1. The department, prior to holding a design or planning hearing, shall provide duly notice to all affected property owners of record, as recorded in the property appraiser's office, by mail at least 20 days prior to the date set for the hearing. The affected property owners are shall be:

a. Those whose property lies in whole or in part within 300 feet on either side of the center line of the proposed facility.

b. Those whom who the department determines will be substantially affected environmentally, economically, or socially; or whose safety will be affected safetywise.

2. For each planning or design subsequent hearing, the department shall twice daily publish notice at least 14 days immediately prior to the hearing date in a newspaper of general circulation for the area affected and shall publish notice of a planning hearing in the *Florida Administrative Weekly*.

3. A copy of the notice of opportunity for public hearing shall be furnished to the United States Department of Transportation and to the appropriate departments of the state government at the time of publication.

(d) 1.4.—The opportunity for Another public hearing shall be held if afforded in any case when proposed locations or designs are so changed from those presented in the notices specified in paragraph (c) above or at a public hearing as to have a substantially different social, economic, or environmental effect.

2.5.—The opportunity for A public hearing shall be held if afforded in each case in which the department is in doubt as to whether a public hearing is required.

Section 42. Subsections (9) and (14) of section 339.175, Florida Statutes, are amended, and subsection (23) is added to that section, to read:

339.175 Transportation planning organization.—

(9) The powers, privileges, and authority of an M.P.O. are those specified in this section and incorporated in the interlocal agreement authorized under s. 163.01. The duties of an M.P.O. are described as those duties required by federal and state laws, rules, and regulations, now and subsequently applicable, which are necessary to qualify the urbanized areas of the state to receive all federal-aid transportation funds for which they are legally eligible as a consequence of the proper exercise of such duties. Such duties include, in cooperation with the department, the following functions, including any subsequent amendments or expansions required by federal and state laws, rules, and regulations:

(a) Development of:

1. A comprehensive transportation plan which includes consideration of long-range goals and transportation systems management measures.

2. An annual unified planning work program which will identify the planning budget and the planning activities to be undertaken during the program year. The work program shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the urbanized area of the M.P.O.

3. An annually updated transportation improvement program, which shall consist of improvements recommended from the comprehensive transportation plan developed and recommended for federal or state funding during the program period and which shall:

a. Identify transportation improvements recommended for advancement during the next fiscal year and 4 subsequent state fiscal years. Such improvements shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the urbanized area of the M.P.O. The department shall give primary priority to those transportation improvements that are:

(I) Designed to maximize safe and efficient travel;

(II) Identified in approved local government comprehensive plans to receive local matching funds in accordance with the provisions of s. 335.20 or to be funded pursuant to the provisions of s. 339.12;

(III) Within transportation corridors protected by local government action;

(IV) Used in the operation of or in conjunction with public transportation facilities; and

(V) Located within the boundaries of a local government which has made a responsible local effort to fund improvements needed to accommodate local transportation demand.

b. Indicate the priorities for the area.

c. Group improvements of similar urgency and anticipated staging into appropriate staging periods.

d. Include realistic estimates of total costs and revenues for the program period.

e. Include a discussion of how improvements relate to the comprehensive transportation plan.

f. Indicate how the improvements are consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government whose boundaries are within the urbanized area.

g. Indicate how the improvements are consistent, to the maximum extent feasible, with port and aviation master plans, and public transit development plans of the units of local government whose boundaries are within the urbanized area.

The annual transportation improvement program shall be submitted to the district secretary and the Department of Community Affairs at least 120 90 days prior to the submission of the tentative work program to the Florida Transportation Commission.

(b) Recommendation to the department and local governmental entities, including local transit, port, and aviation authorities, regarding transportation plans, programs, and projects to better ensure their compatibility with the long-range plans and programs of the M.P.O.

(c) Representation of all the jurisdictional areas within the approved urbanized limits in the formulation of those transportation plans and programs defined herein, and otherwise authorized by state and federal laws, rules, and regulations.

(d) Performance of other duties delegated to it by federal and state laws, rules, or regulations.

(14) ~~By January 1, 1991,~~ Each M.P.O. shall execute and maintain an agreement with publicly owned operators of public transportation, port, and aviation services which describes the means by which activities ~~are will be~~ coordinated and specifies how public transit, port, and aviation planning and programming ~~are will be~~ part of the comprehensive planned development of the urbanized area.

(23)(a) *A Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual metropolitan planning organizations in the cooperative transportation planning process and to assist the department in the systematic planning process described in s. 339.155(5).*

(b) *The council shall consist of one representative from each metropolitan planning organization and shall elect a chairperson annually from their number. Members of the council may not receive any compensation for their services, but may be reimbursed for travel and per diem expenses incurred in the performance of their council duties, as provided in s. 112.061.*

(c) *The powers and duties of the Metropolitan Planning Organization Advisory Council are to:*

1. *Enter into contracts with individuals, private corporations, and public agencies.*

2. *Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.*

3. *Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.*

4. *Establish bylaws and make rules to effectuate its powers, responsibilities, and obligations.*

5. *Assist the metropolitan planning organizations in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.*

6. *Serve as a clearinghouse for review and comment by the metropolitan planning organizations on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.*

Section 43. Section 341.031, Florida Statutes, is amended to read:

341.031 Definitions.—As used in ss. 341.011-341.061, the term:

(1) *"Commuter assistance program" means financial and technical assistance provided by the department to commuters to promote alternatives to the driving of automobiles by individual commuters. The term includes ridesharing and transportation demand management.*

(2)(3) *"Eligible transit operating costs" means the total administrative, management, and operation costs directly incident to the provision of public transit services, excluding any depreciation or amortization of capital assets and costs for labor, wages, and fringe benefits.*

(3)(2) *"Fixed-guideway transportation system" means a public transit system for the transporting of people by a conveyance, or a series of interconnected conveyances, which conveyance or series of conveyances is specifically designed for travel on a stationary rail or other guideway, whether located on, above, or under the ground.*

(4) *"Local revenue sources" means the sum of funds received from a local government entity to assist in paying transit operation costs, including tax funds, and revenue earned from fare box receipts, charter service, contract service, express service, and nontransportation activities.*

(5) *"Paratransit" means a form these elements of public transit that provides which provide service between a point of origin specific origins and a destination destinations selected by the individual user with such service being provided at a mutually agreed upon time that is agreed upon by the user and the provider of the service. Paratransit service*

~~includes is provided by~~ taxis, limousines, "dial-a-ride" buses, and other demand-responsive operations that are characterized by their nonscheduled, nonfixed route nature.

(6) *"Public transit" means the transporting of people who are traveling on land or water by a conveyance conveyances, or a system systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned. Public transit specifically includes the form these forms of transportation commonly known as "paratransit."*

(7) *"Public transit capital project" means a project undertaken by a public agency to provide public transit to its constituency, and is limited to acquisition, design, construction, reconstruction, or improvement of a governmentally owned or operated transit system.*

(8)(1) *"Public transit provider" or "provider" means a public agency providing public transit service, including rail authorities created in chapter 343.*

(9)(8) *"Public transit service development project" means a project of undertaken by a public agency to determine whether a new or innovative technique or measure can be used utilized to improve or expand public transit services to its constituency. The duration of the project is shall be limited according to the type of the project in conformance with the provisions of s. 341.051(5)(f), but may not in no case shall exceed a period of 3 years. Public transit service development projects may involve specifically include projects involving the utilization of new or improved technologies, services, routes, or vehicle frequencies; the purchase of special transportation services; and other such techniques for increasing service to the riding public as are applicable to specific locations localities and transit user groups of people.*

(10)(9) *"Ridesharing" means an arrangement between or among persons with a common destination, or destinations, within the same proximity, to share the use of a motor vehicle on a recurring basis for round-trip transportation to and from their place of employment or other common or nearby destination. For purposes of ridesharing, employment commences shall be deemed to commence when an employee arrives at the employee's employer's place of employment to report for work and terminates shall be deemed to terminate when the employee leaves the employee's employer's place of employment, excluding the areas that are not under the control of the employer. However, an employee is shall be deemed to be within the course of employment when the employee is performing engaged in the performance of duties assigned or directed by the employer, or is acting in the furtherance of the business of the employer, irrespective of location.*

(11)(10) *"Transit corridor project" means a project that is undertaken by a public agency and is designed to relieve congestion and improve capacity within an identified transportation corridor, as designated in accordance with the provisions of s. 339.155(1)(d), by increasing the people-carrying capacity of the system through the use and facilitated movement of high-occupancy conveyances. The service duration of such a project may shall not exceed a period of 2 years unless the Legislature, on the basis of documentation by the department that the project is the most cost-effective method of relieving congestion and improving capacity within the identified corridor, reauthorizes the project for an additional 2 years.*

(12) *"Transportation demand management" means techniques to increase the efficiency of existing transportation systems by influencing the demand on the systems such as reducing the number of automobiles during peak traffic hours.*

(13) *"Transportation management association" means an organization that helps solve transportation problems by encouraging businesses and governments to implement ridesharing programs and other management strategies.*

Section 44. Subsection (5) of section 341.051, Florida Statutes, is amended to read:

341.051 Administration and financing of public transit programs and projects.—

(5) FUND PARTICIPATION; CAPITAL ASSISTANCE.—

(a) The department may fund up to 50 percent of the nonfederal share of the costs of any eligible public transit capital project that is local



in scope; except, however, that departmental participation in the final design, right-of-way acquisition, and construction phases of an individual fixed-guideway project which is not approved for federal funding shall not exceed an amount equal to 12.5 percent of the total cost of each phase. ~~Departmental participation shall not exceed 10 percent of the total project costs of federally assisted projects approved for federal funding prior to January 6, 1983, and 12.5 percent of the total project costs of such projects approved for federal funding after January 6, 1983, except that the department may participate in federally assisted ride-sharing programs in an amount which shall not exceed 15 percent of the total project costs.~~

(b) The Department of Transportation shall develop a major capital investment policy which ~~includes~~ ~~shall include~~ policy criteria and guidelines for the expenditure or commitment of state funds for public transit capital projects. The policy ~~includes~~ ~~shall include~~ the following:

1. Methods ~~for determining to be used to determine~~ consistency of a transit project with the approved local government comprehensive plans of the units of local government in which the project is located.

2. Methods for evaluating the level of local commitment to a transit project, which is to be demonstrated through system planning and the development of a feasible plan to fund operating cost through fares, value capture techniques such as joint development and special districts, or other local funding mechanisms.

3. Methods for evaluating alternative transit systems including an analysis of technology and alternative methods for providing transit services in the corridor.

~~The department shall present such investment policy to both the Senate Transportation Committee and the House Public Transportation Committee along with recommended legislation by March 1, 1991.~~

(c) ~~The department may be authorized to fund up to 100 percent of the cost of an any eligible transit capital project that is statewide in scope or that involves more than one county where no other governmental entity or appropriate jurisdiction exists.~~

(d) ~~The department may be authorized to advance up to 80 percent of the capital cost of any eligible project that will assist Florida's transit systems in becoming fiscally self-sufficient. Such advances shall be reimbursed to the department on an appropriate schedule not to exceed 5 years after the date of provision of the advances.~~

(e) ~~The department may be authorized to fund up to 100 percent of the capital and net operating costs of statewide transit service development projects or transit urban corridor projects. All transit service development project projects shall be specifically identified in the by way of a departmental appropriation request, and transit corridor projects shall be identified as part of the planned improvements on each transportation corridor designated by the department. The project objectives, the assigned operational and financial responsibilities, the time period needed timeframe required to develop the required service, and the criteria by which the success of the project will be judged shall be documented by the department for each such transit service development project or transit corridor project.~~

(f) ~~The department may be authorized to fund up to 50 percent of the capital and net operating costs of a local transit service development project projects that are local in scope and that will improve system efficiency efficiencies, ridership, or revenues. All Such project projects shall be identified in the appropriation request of the department through a specific program of projects, as provided for in s. 341.041, that is selectively applied in the following functional areas and is subject to the specified times of duration:~~

1. Improving system operations, including, but not limited to, realigning route structures, increasing system average speed, decreasing dead-head mileage, expanding area coverage, and improving schedule adherence, for a period of up to 3 years;

2. Improving system maintenance procedures, including, but not limited to, effective preventive maintenance programs, improved mechanics training programs, decreasing service repair calls, decreasing parts inventory requirements, and decreasing equipment downtime, for a period of up to 3 years;

3. Improving marketing and consumer information programs, including, but not limited to, automated information services, organized advertising and promotion programs, and signing of designated stops, for a period of up to 2 years; and

4. Improving technology involved in overall operations, including, but not limited to, transit equipment, fare collection techniques, electronic data processing applications, and bus locators, for a period of up to 2 years.

The term "net operating costs" means all operating costs of a project less any federal funds, fares, or other sources of income to the project.

Section 45. Section 341.052, Florida Statutes, is amended to read:

341.052 Public transit block grant program; administration; eligible projects; limitation.—

(1) ~~The There is created a public transit block grant program is which shall be administered by the department. Block grant funds are shall only be provided to "Section 9" providers and "Section 18" providers designated by the United States Department of Transportation and to community transportation coordinators as defined in chapter 427. Eligible providers must establish public transportation development plans that are consistent, to the maximum extent feasible, with the approved local government comprehensive plan plans of each the units of local governmental jurisdiction government in which the provider is located.~~

(2) ~~Costs for which~~ Public transit block grant program funds may be expended ~~for include:~~

(a) ~~Costs of~~ Public bus transit and local public fixed guideway capital projects.

(b) ~~Costs of~~ Public bus transit service development and transit corridor projects. ~~When block grant funds are used for a service development project or for a transit corridor project, the use of such funds is governed by s. 341.051. Local transit service development projects and transit corridor projects currently operating under contract with the department shall continue to receive state funds according to the contract until such time as the contract expires. Transit corridor projects, wholly within one county, meeting or exceeding performance criteria as described in the contract must shall be continued by the transit provider at the same or a higher level of service until such time as the department, the M.P.O., and the service provider, agree to discontinue the service. The provider may not increase fares for services in transit corridor projects wholly within one county without the consent of the department.~~

(c) ~~Costs of~~ Public bus transit operations.

~~A project must All projects shall be consistent, to the maximum extent feasible, with the approved local government comprehensive plan plans of each the units of local governmental jurisdiction government comprehensive plans of local government in which the project is located.~~

(3) The following limitations ~~shall apply to the use of~~ public transit block grant program funds:

(a) State participation in eligible capital projects ~~is shall be~~ limited to 50 percent of the nonfederal share of such project costs.

(b) State participation in eligible public transit operation costs may not exceed 50 percent of such costs ~~or an amount equal to the total revenues, excluding farebox, charter, and advertising revenue and federal funds received by the provider for operating costs, whichever amount is less.~~

(c) ~~An Ne~~ eligible public transit provider ~~may not shall~~ use public transit block grant funds to supplant local tax revenues made available to such provider for operations in the previous year.

(d) The state may not give any county more than 39 percent of the funds available for distribution under this section or more than the amount that local revenue sources provide to that transit system.

(4) To remain eligible to receive funding under the public transit block grant program, eligible public transit providers must comply with the requirements of s. 341.071(1) ~~by July 1, 1991, and the requirements of s. 341.071(2) by July 1, 1992, and must comply with the provisions of paragraph (2)(b) relating to existing transit corridor projects.~~

(5) The department shall distribute 15 percent of the funds designated for the public transit block grant program into the Transportation Disadvantaged Trust Fund for distribution to community transportation coordinators as provided by the rules of the Transportation Disadvantaged Commission.



(6) The department shall distribute 85 percent of the public transit block grant funds to "Section 9" and "Section 18" providers designated by the United States Department of Transportation. ~~as follows:~~

~~(a) All eligible "Section 9" providers shall receive \$20,000 or an amount equal to the amount of local government tax revenue received by such provider, whichever is less.~~

(b) The ~~remaining~~ funds shall be distributed to "Section 9" providers, and to "Section 18" providers that are not designated as community transportation providers pursuant to chapter 427, according to the following formula:

(a)1. One-third shall be distributed according to the percentage that an eligible provider's county population in the most recent year for which those population figures are available from the state census repository is of the total population of all counties served by eligible providers.

(b)2. One-third shall be distributed according to the percentage that the total revenue miles provided by an eligible provider, as verified by the most recent "Section 15" report to the Urban Mass Transportation Administration or a similar audited report submitted to the department, is of the total revenue miles provided by eligible providers in the state in that year.

(c)3. One-third shall be distributed according to the percentage that the total passengers carried by an eligible provider, as verified by the most recent "Section 15" report submitted to the Urban Mass Transportation Administration or a similar audited report submitted to the department, is of the total number of passengers carried by eligible providers in the state in that year.

*However, at least \$20,000 shall be distributed to an eligible provider if application of the formula provides less than that amount for that provider.*

(7)(a) *Any funds distributed to an eligible provider pursuant to subsection (6) which cannot be expended within the limitations of the block grant program shall be returned to the department for redistribution to other eligible providers pursuant to that subsection.*

(b) *The department may consult with an eligible provider, before distributing funds to that provider pursuant to subsection (6), to determine whether the provider can expend its block grant within the limitations of the block grant program. If the department and the provider agree that the block grant cannot be expended, the provider may agree to accept a smaller block grant and the excess funds shall be redistributed to other eligible providers pursuant to subsection (6).*

(c) *If an audit reveals that an eligible provider expended block grant funds on an unauthorized use, the provider shall repay to the department the amount expended on the unauthorized use. The department shall redistribute those repayments to other eligible providers pursuant to subsection (6).*

Section 46. Section 348.0004, Florida Statutes, is amended to read:

348.0004 Purposes and powers.—

(1)(a) An authority created and established pursuant to the Florida Expressway Authority Act may acquire, hold, construct, improve, maintain, operate, own, and lease an expressway system.

(b) Each authority, in the construction of an expressway system, shall construct expressways. Construction of an expressway system may be completed in segments, phases, or stages, in a manner which will permit the expansion of these segments, phases, or stages to the desired expressway configuration. Each authority, in the construction of an expressway system, may construct any extensions of, additions to, or improvements to, the expressway system or appurtenant facilities, including all necessary approaches, roads, bridges, and avenues of access, with such changes, modifications, or revisions of the project that are deemed desirable and proper. An authority may only add additional expressways to an expressway system, under the terms and conditions set forth in the Florida Expressway Authority Act, with the prior express written consent of the board of county commissioners of each county located within the geographic boundaries of the authority, and only if such additional expressways lack adequate committed funding for implementation, are financially feasible, and are compatible with the existing plans, projects, and programs of the authority.

(2) Each authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, and complain and defend in all courts.

(b) To adopt, use, and alter at will a corporate seal.

(c) To acquire, purchase, hold, lease as lessee, and use any franchise or property, real, personal, or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the authority and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it.

(d) To enter into and make leases, either as lessee or as lessor, in order to carry out the right to lease as set forth in the Florida Expressway Authority Act.

(e) To enter into and make lease-purchase agreements with the department until any bonds secured by a pledge of rentals thereunder, and any refundings thereof, are fully paid as to both principal and interest.

(f) To fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the services and facilities system, which tolls, rates, fees, rentals, and other charges must always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to the Florida Expressway Authority Act. However, such right and power may be assigned or delegated by the authority to the department.

(g) To borrow money as provided by the State Bond Act. An authority shall reimburse a county for any sums expended, together with interest at the highest rate applicable to the bonds of the authority for which the sums were required, from the county gasoline tax funds for payment of the bonds.

(h) To enter contracts and to execute all instruments necessary or convenient for the carrying on of its business.

(i) Without limitation of the foregoing, to borrow money and accept grants from, and to enter into contracts, leases, or other transactions with, any federal agency, the state, any agency of the state, county, or any other public body of the state.

(j) To have the power of eminent domain, including the procedural powers granted under chapters 73 and 74.

(k) To pledge, hypothecate, or otherwise encumber all or any part of the revenues, tolls, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of county gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, as security for all or any of the obligations of the authority.

(l) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by law.

(3) Any provision of law to the contrary notwithstanding, the consent of any municipality is not necessary for any project of an existing or new authority, whether or not the project lies in whole or in part within the boundaries of the municipality, if the project is consistent with the locally adopted comprehensive plan. However, if a project is inconsistent with the affected municipal comprehensive plan, the project may not proceed without a hearing pursuant to s. 120.57, at which it is determined that the project is consistent with the adopted metropolitan planning organization transportation improvement plan, if any, and the applicable regional comprehensive plan, and at which regional interests are determined to clearly override the interests of the municipality.

(4) *Any provision of law to the contrary notwithstanding, if a project of an authority is not consistent, to the maximum extent feasible, with a county comprehensive plan or with a metropolitan planning organization transportation improvement plan, the project may not proceed.*

(5)(4) The use or pledge of all or any portion of county gasoline tax funds may not be made without the prior express written consent of the board of county commissioners of each county located within the geographic boundaries of the authority.

(6)(5) Any authority formed pursuant to this act shall comply with all statutory requirements of general application which relate to the filing of any report or documentation required by law, including the requirements of ss. 189.4085, 189.415, 189.417, and 189.418.

Section 47. The Department of Transportation shall institute a system under which any person who wishes to purchase an annual permit allowing unlimited passage over the Bryant Grady Patton Bridge in Franklin County by the motor vehicle for which it is issued may do so at an annual cost of \$100. The department shall institute the system no later than July 1, 1992.

Section 48. Section 337.241, Florida Statutes, is repealed.

Section 49. Section 337.108, Florida Statutes, is created to read:

337.108 Pollution; indemnification.—

(1) As used in this section, the term:

(a) "Contractor" means any person or firm that has a contract for rendering services to the department relating to the construction or maintenance of a transportation facility. The term does not include persons or firms performing hazardous material or pollutant response, containment, disposal, or cleanup services.

(b) "Hazardous material" has the meaning provided in s. 768.128(1)(a).

(c) "Pollutant" has the meaning provided in s. 376.031(13).

(2) The department may agree to hold harmless and indemnify a contractor for damages when the contractor discovers or encounters hazardous materials or pollutants during the performance of services for the department if the presence of such hazardous materials or pollutants was unknown or not reasonably discoverable. Such an indemnification agreement is effective only if the contractor immediately stops work and notifies the department of the hazardous materials or pollutants.

(3) Such an indemnification agreement may not indemnify the contractor for damages resulting from any willful, wanton, or intentional conduct of the contractor.

Section 50. Section 337.175, Florida Statutes, is amended to read:

337.175 Retainage.—The department shall provide in its construction contracts for retaining a portion of the amount due a contractor for work that he has completed, until completion and final acceptance of the project by the department. ~~Notwithstanding the provisions of s. 255.052, the department may not accept the substitution of securities for amounts retained on a construction contract. However, those contractors who have completed department projects without being declared delinquent for the preceding 3 consecutive years shall be allowed to substitute securities as provided by s. 255.052, to substitute certificates of deposit that have been approved by the department comptroller, or to substitute irrevocable letters of credit that have been approved by the department comptroller, in lieu of retainage.~~

Section 51. The Department of Transportation may not expend any funds for Work Program 1785 on the proposed North Broward General Aviation Airport and the department shall, to the extent possible, reprogram any money from line item 4820184 of the department's Five Year Work Program for other general aviation needs in Broward County.

Section 52. Subsections (1), (2), and (8) of section 337.185, Florida Statutes, are amended to read:

337.185 State Arbitration Board.—

(1) To facilitate the prompt settlement of claims for additional compensation arising out of construction contracts between the department and the various contractors with whom it transacts business, the Legislature does hereby establish the State Arbitration Board, referred to in this section as the "board." Every contractual claim or claims in an aggregate amount up to \$100,000 per contract that cannot be resolved by the department and the contractor shall be arbitrated by the board after acceptance of the project by the department, provided no party to the dispute requests the claim or claims be submitted to binding private arbitration. *At the contractor's option, every contractual claim or claims in an aggregate amount in excess of \$100,000 but not exceeding \$250,000 per contract that cannot be resolved by the department and the contractor may be arbitrated by the board after acceptance of the project by the*

*department, provided no party to the dispute requests the claim or claims be submitted to binding private arbitration. A court of law may not consider the settlement of such a claim until the process established by this section has been exhausted.*

(2) The board shall be composed of three members. One member shall be appointed by the head of the department, and one member shall be elected by those construction companies who are under contract with the department. The third member shall be chosen by agreement of the other two members. Whenever the third member has a conflict of interest regarding affiliation with one of the parties, the other two members shall select an alternate member for that hearing. Each member shall serve a 2-year term, ~~but a member may not serve more than three consecutive terms.~~ The board shall elect a chairman, each term, who shall be the administrator of the board and custodian of its records.

(8) The party requesting arbitration shall pay a fee to the board in accordance with a schedule established by it, not to exceed \$500 per claim *which is \$100,000 or less and not to exceed \$1,000 per claim which is in excess of \$100,000 but not exceeding \$250,000*, to cover the cost of administration and compensation of the board.

Section 53. Section 337.221, Florida Statutes, is amended to read:

337.221 Claims settlement process.—It is the intent of the Legislature that a process be created to resolve contractual claims between the department and providers of goods and services and that the department pursue the recovery of additional costs resulting from substandard goods and services provided to the department.

(1) To implement this policy, the department shall, by rule, establish a process to resolve claims for additional monetary compensation, time, or other adjustments to the contract.

(2) *The department shall document its final decision on all claims, including reasonable support for its decision.*

(3) *On all claims resolutions resulting in increases of the contract by more than \$500,000, a responsible department director, after reasonable inquiry, shall:*

(a) *Certify that no known facts or circumstances relating to the resolution of the claim indicate any improper intervention or influence, or attempts at any such intervention or influence, on behalf of the consultant or contractor; or*

(b) *Report to the secretary of the department that facts or circumstances exist that indicate improper intervention or influence, or attempts at such improper intervention or influence, on behalf of the consultant or contractor.*

*Any such certification or report shall be verified in accordance with s. 92.525.*

(4) *The recovery for a claim not resolved through the department's claim settlement process shall only be pursued through state arbitration board or circuit court proceedings, as provided by law.*

(5) *The department shall annually file a summary report on claim settlements to the transportation committees of the Legislature by October 1 each year. The report shall provide sufficient information to determine whether further inquiry into the claims settlement process is warranted.*

~~(2)—At a minimum the rule shall:~~

~~(a)—Assign responsibility to persons within the department for identifying, documenting, reviewing, and approving claims.~~

~~(b)—Specify the criteria used to analyze and resolve claims.~~

~~(c)—Require the department to maintain detailed documentation in writing to support its position on all claims, including the department's final decision or settlement.~~

~~(d)—Establish a threshold for the department's chief internal auditor to review resolved claims over a specified amount and determine whether the claims have been processed in accordance with all applicable laws, rules, and procedures.~~

~~(e)—Require that each claim over a specified amount or other significant adjustment to the contract be reviewed by a department legal representative. All claims and adjustments to the contract that are determined~~

by the department to be valid must be approved by a minimum of two department managers, one of whom shall be the responsible district or central office director. Further, for each claim that results in a supplemental agreement or other contract modification and increases the value of the contract by more than \$500,000, the department shall execute a certificate as a condition of the supplemental agreement or modification becoming effective that contains the following representations:

1.—The responsible attorney shall certify that the supplemental agreement or other contract modification complies with all applicable laws and policies of the department and has been duly authorized and executed. Findings by the responsible attorney that indicate possible noncompliance with applicable laws, rules, or procedures shall be reported in writing to the responsible director.

2.—The responsible director shall certify that there are no facts or circumstances relating to the supplemental agreement or other contract modification that would indicate that the agreement or modification was effected by any improper influences or by any improper intervention on behalf of the consultant or contractor by any state officer, state employee, or any other person outside the department.

The foregoing certificate shall be maintained as a part of the permanent contract records of the department.

(3) The department shall annually report to the transportation committees of the Legislature by October 1 each year the number and dollar amounts of new and prior year claims, the total number and dollar amounts originally claimed compared to their final settlement amount for those claims resolved during the year, a listing of how all claims were resolved during the year, and the number and dollar amounts of claims that resulted in further formal action by the department or claimant.

(4) The rule for implementing the provisions of this section shall be adopted by the department no later than January 1, 1991.

Section 54. Subsections (1) and (2) of section 212.69, Florida Statutes, are amended to read:

#### 212.69 Distribution of proceeds.—

(1) Moneys collected pursuant to this part shall be deposited in the Gas Tax Collection Trust Fund created by s. 206.875 s. 206.45. Such moneys, exclusive of the service charges imposed by s. 215.20, and exclusive of refunds granted pursuant to s. 212.67, must shall be distributed monthly to the State Transportation Trust Fund, except that \$3.8 million per year must shall be transferred to the Department of Natural Resources in equal monthly amounts,; \$1 million of which must this amount shall be spent solely for nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement of aquatic weed control programs, and except that \$1.5 million per year must be transferred to the Board of Regents in equal monthly amounts, to be spent solely for the purposes of s. 334.065.

(2) Not less than 10 percent of the moneys deposited in the State Transportation Trust Fund pursuant to this section shall be allocated by the Department of Transportation for public transit and rail capital projects, including service development projects, as defined in s. 341.031(7) and (8) s. 341.031(4) and (5), unless otherwise provided in the General Appropriations Act.

Section 55. Section 334.065, Florida Statutes, is amended to read:

#### 334.065 Center for Urban Transportation Research.—

(1) There is established at the University of South Florida the Florida Center for Urban Transportation Research, to be administered by the Board of Regents and the State University System. The responsibilities of the center include, but are not limited to, conducting and facilitating research on issues related to urban transportation problems in this state and serving as an information exchange and depository for the most current information pertaining to urban transportation.

(2) The center shall be a continuing resource for the Legislature, the Department of Transportation, local governments, the nation's metropolitan regions, and the private sector in the area of urban transportation research and shall generate support in addition to its state-funded base of support provided by s. 212.69(1). The center shall promote inter-campus transportation research activities among Florida's universities in order to enhance the ability of these universities to attract federal funding and private-sector private-sector funding for transportation research.

(3) An advisory board must shall be created to periodically and objectively review and advise the center concerning its research program. Projects funded from the state-funded base of support provided by s. 212.69(1) must be approved by the advisory board. The membership of the board shall consist of experts in the area of transportation, including the Secretary of the Department of Transportation and a member of the Florida Transportation Commission. The nomination of members of the board shall be made to the President of the University of South Florida by the College of Engineering at the University of South Florida, and the appointment of members must be confirmed by the Board of Regents.

(4) The center shall develop a budget pursuant to chapter 216. The budget is not subject to change by the department, but such budget shall be submitted to the Governor along with the budget of the department.

Section 56. The Orlando-Orange County Expressway Authority is hereby authorized to construct that portion of the Western Beltway known as the Northwest Beltway Part A, extending from Florida's Turnpike near Ocoee north to U.S. 441 near Apopka, as part of the authority's 20-year capital projects plan. This project shall be financed with any funds available to the authority for such purpose or revenue bonds issued by the Division of Bond Finance of the Department of General Services on behalf of the authority pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act, ss. 215.57-215.83, Florida Statutes. Notwithstanding s. 338.2275, Florida Statutes, any portion of the Western Beltway financed by Orlando-Orange County Expressway Authority revenue bonds shall not be a part of the Florida Turnpike.

Section 57. Pursuant to section 11(e), Article VII of the State Constitution, the Legislature hereby approves for bond financing by the Orlando-Orange County Expressway Authority improvements to toll collection facilities, interchanges to the legislatively approved expressway system and any other facility appurtenant, necessary, or incidental to the approved system. Subject to terms and conditions of applicable revenue bond resolutions and covenants, such financing may be in whole or in part by revenue bonds currently issued, issued in the future, or by a combination of such bonds.

Section 58. Subsections (7) and (8) of section 338.001, Florida Statutes, are amended to read:

#### 338.001 Florida Intrastate Highway System Plan.—

(7) Any No project that is to may be constructed as part of the Florida Intrastate Highway System must be unless included in the department's system plan as adopted work program by affirmative action of the Legislature. Any Florida Intrastate Highway System projects that are added to or deleted from the previous adopted work program, or any modification to Florida Intrastate Highway System projects contained in the previous adopted work program, must be specifically identified and submitted as a separate part of the tentative work program.

(8) Updates of the proposed Florida Intrastate Highway System Plan must shall be included as a section of the Florida Transportation Plan annually submitted to the Legislature by January 15 1991. After the annual submission, but before the next regular session following that submission, the department shall present to the legislative transportation committees a status report on the Florida Intrastate Highway System Plan.

Section 59. Subsection (3) of section 338.223, Florida Statutes, is amended to read:

#### 338.223 Proposed turnpike projects; turnpike system plan.—

(3) All obligations and expenses incurred by the department under this section shall be paid by the department and charged to the appropriate turnpike project. The department shall keep proper records and accounts showing each amount that is so charged. All obligations and expenses so incurred shall be treated as part of the cost of such project and shall be reimbursed to the department out of turnpike revenues or out of the bonds authorized under ss. 338.22-338.244 except when such reimbursement is prohibited by state or federal law. However, the department is authorized, with the approval of the Legislature, to pay from the State Transportation Trust Fund a portion of the capital cost of toll projects as necessary to meet the requirements of paragraph s. 338.223(1)(a). In order to meet the requirements of paragraph (1)(a), the department may provide that State Transportation Trust Fund moneys spent or obligated before July 1, 1992, or included in the 1992-1993 - 1996-1997 adopted work program, for a proposed turnpike project need

not be reimbursed to the State Transportation Trust Fund, need not be considered as part of the project's cost for the purposes of s. 338.2275, and need not be used in determining the economic feasibility of the project.

Section 60. Subsection (3) of section 338.2275, Florida Statutes, is amended to read:

338.2275 Approved turnpike projects.—Pursuant to s. 11(e), Art. VII of the State Constitution, the Legislature hereby approves:

(3) Subject to verification of economic feasibility by the department, determination that such projects are consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local government jurisdiction in which such projects are located, and completion of a statement of environmental feasibility in accordance with s. 338.221(8) and (10), respectively, the following projects are approved:

(a) The Polk County Parkway; a 24.8-mile two-lane and four-lane limited access expressway in Polk County extending from the intersection of I-4 and Clark Road near the Hillsborough County Line through Lakeland near Drainfield Road eastward to State Road 540 and to U.S. 98 and then east and northward to near Polk City to intersect with I-4 near Mount Olive Road. The department is authorized to use ~~utilize~~ up to \$412 ~~\$335~~ million for this project.

(b) Branan Field/Chaffee Road Facility; ~~an 11-mile a 10.5-mile~~ limited access expressway extending north from State Road 21 in Clay County to Chaffee Road ~~103rd Street~~ in western Duval County. The department is authorized to use ~~utilize~~ up to \$102 ~~\$52.2~~ million for this project.

(c) Palmer Expressway; a 6.2-mile four-lane limited access expressway in St. Lucie County extending from Glades Cut-off Road to U.S. 1. The department is authorized to use ~~utilize~~ up to \$121 ~~\$102~~ million for this project.

(d) Seminole County Expressway, Project 1; a four-lane limited access expressway extending 12 miles from State Road 426 near the Orange/Seminole County line in east Orlando to U.S. 17-92. The department is authorized to use ~~utilize~~ up to \$200 ~~\$182.4~~ million for this project.

(e) Northwest Hillsborough Expressway; a 14.9-mile four-lane limited access toll facility extending north from the Courtney Campbell Causeway near the Tampa International Airport to Dale Mabry Highway (State Road 597) just north of Van Dyke Road. The department is authorized to use ~~utilize~~ up to \$333 ~~\$325.9~~ million for this project.

(f) The Southern Connector Extension; a 6.0 mile four-lane limited access extension of the Southern Connector toll facility extending southwesterly from a point one mile east of State Road 535 to an interchange with I-4 south of U.S. 192. The department is authorized to use ~~utilize~~ up to \$82 ~~\$81.5~~ million for this project.

(g) Seminole County Expressway, Project 2; a 5.7 mile, four-lane, limited access highway extending from U.S. 17/92 interchange to an interchange with C.R. 46A and I-4. The department is authorized to use ~~utilize~~ up to \$150 ~~\$149.8~~ million for this project.

(h) North Suncoast Corridor; a 43 mile, four-lane, limited access highway extending north from the Northwest Hillsborough Expressway to S.R. 700 (U.S. 98) in Hernando County. The department is authorized to use ~~utilize~~ up to \$434 ~~\$402.5~~ million for this project.

(i) Western Beltway; a 55.0 mile, four-lane, limited access highway originating at I-4 in the vicinity of C.R. 46A in Seminole County and extending westerly and southerly through Orange and Osceola Counties to an interchange with I-4 near the Osceola-Polk county line, *excluding that portion known as the Northwest Beltway Part A, extending from Florida's Turnpike near Ocoee north to U.S. 441 near Apopka*. The department is authorized to use ~~utilize~~ up to \$453 ~~\$436.8~~ million for this project.

(j) Central Connector; a 5-mile, limited access highway in Orange County extending from the Bee Line Expressway east of Florida's Turnpike, north to Interstate 4 near the Orange Blossom Trail, including the Downtown I-4/Systems Interchange. The department is authorized to use up to \$350 million for this project.

(k) Northern Extension Project; a 49.0 mile, four-lane, limited access highway extending from the northern terminus of the Florida Turnpike in Sumter County to an interchange with U.S. 19 at Lebanon Station in Levy County. The department is authorized to use up to \$336 million for this project.

- (l)(~~g~~) Atlantic Boulevard Interchange in Broward County.
- (m)(~~h~~) N.W. 37th Avenue Interchange in Broward County.
- (n)(~~i~~) S.R. 80/Southern Boulevard Interchange in Palm Beach County.
- (o)(~~h~~) Forest Hill Boulevard Interchange in Palm Beach County.
- (p)(~~a~~) N.W. 45th Street Interchange in Palm Beach County.
- (q)(~~e~~) Lake Worth Road Interchange in Palm Beach County.
- (r)(~~p~~) East/West Expressway Interchange in Orange County.
- (s)(~~q~~) Southern Connector Interchange in Orange County.
- (t)(~~r~~) S.R. 50 Interchange in Orange County.
- (u)(~~s~~) Dart Boulevard Interchange in Osceola County.
- (v)(~~t~~) N.W. 74th Street Interchange in Dade County.
- (w)(~~u~~) Allapattah Road Interchange in Dade County.
- (x)(~~v~~) Tallahassee Road Interchange in Dade County.
- (y)(~~w~~) Biscayne Drive Interchange in Dade County.
- (z)(~~x~~) Campbell Drive Interchange in Dade County.

A maximum of \$1.5 ~~up to \$1.1~~ billion of bonds may be issued to fund the projects contained in this subsection. The department is authorized to use ~~utilize~~ turnpike revenues, the State Transportation Trust Fund moneys allocated for turnpike projects pursuant to s. 338.001, and bond proceeds for the above projects, and shall use the most cost-efficient combination of such funds in developing a financial plan for funding the projects. Up to 10 percent of the total amount of the approved costs of all of the above projects may be set aside as a contingency amount, from which the department may allocate funds for a project that exceeds the cost approved above, but in no event shall the funds allocated from this contingency amount exceed 15 percent of the project's approved cost. Verification of economic feasibility and statements of environmental feasibility for individual projects shall be based on the entire project as approved. Statements of environmental feasibility shall not be required for those projects set forth in this subsection on which the Project Development and Environmental Reports have been completed by July 1, 1990. All required environmental permits shall be obtained before the department may advertise for bids for contracts for the construction of any turnpike project.

Section 61. Section 341.3201, Florida Statutes, is created to read:

341.3201 Florida High-Speed Rail Transportation Act; short title.—Sections 341.3201-341.386 may be cited as the "Florida High-Speed Rail Transportation Act."

Section 62. Section 341.321, Florida Statutes, is amended to read:

341.321 Development of high-speed rail *transportation system lines*; legislative findings, policy, purpose, and intent.—

(1) *The intent of ss. 341.3201-341.386 is to further and advance the goals and purposes of the 1984 High Speed Rail Transportation Commission Act; to ensure a harmonious relationship between that act and the various growth management laws enacted by the Legislature including the Local Government Comprehensive Planning and Land Development Regulation Act, ss. 163.3616-363.3215, the Florida State Comprehensive Planning Act of 1972 as amended, ss. 186.011-186.031, the Florida Regional Planning Council Act, ss. 186.501-186.512, and the State Comprehensive Plan, chapter 187; to promote the implementation of these acts in an effective manner; and to encourage and enhance the establishment of a high-speed rail transportation system connecting the major urban areas of the state as expeditiously as is economically feasible. Furthermore, it is the intent of the Legislature that any high-speed rail line and transit station be consistent to the maximum extent feasible with local comprehensive plans, and that any other development associated with the rail line and transit station shall ultimately be consistent with comprehensive plans. The Legislature therefore reaffirms these enactments and further finds:*

(a) *That the implementation of a high-speed rail transportation system in the state will result in overall social and environmental benefits, improvements in ambient air quality, better protection of water quality, greater preservation of wildlife habitat, less use of open space, and enhanced conservation of natural resources and energy.*

(b) *That a high-speed rail transportation system, when used in conjunction with sound land-use planning, becomes a vigorous force in achieving growth management goals and in encouraging the use of public transportation to augment and implement land use and growth management goals and objectives.*

(c) *That urban and social benefits include revitalization of blighted or economically depressed areas, the redirection of growth in a carefully and comprehensively planned manner, and the creation of numerous employment opportunities within inner-city areas.*

(d) *That transportation benefits include improved travel times and more reliable travel, hence increased productivity. High-speed rail is far safer than other modes of transportation and, therefore, travel-related deaths and injuries can be reduced, and millions of dollars can be saved from avoided accidents.*

(2)(1) It is the finding of the Legislature that:

(a) Access to timely and efficient modes of passenger transportation is necessary for Florida's travelers, visitors, and day-to-day commuters; to the quality of life in the state; and to the economy of the state.

(b) Technological advances in the transportation system can significantly and positively affect the ability of the state to attract and provide efficient services for domestic and international tourists and thus significantly affect the revenues of the state.

(c) The development and utilization of a properly designed, constructed, and financed high-speed rail transportation system line can act as a catalyst for economic growth and development; eliminate unduly long and traffic-congested commutes for day-to-day commuters; create new employment opportunities; create a safer transportation alternative; serve as a positive growth management system for building a better and more environmentally secure state; and promote the health, safety, and welfare of the citizens of the state.

(d) *Sections 341.3201-341.386 are* The passage of this act is a declaration of legislative intent that the state pursue the development of a high-speed rail transportation system line to solve transportation problems and eliminate their negative effect impacts on the citizens of this state.

(e) Joint development is a necessary planning, financing, management, operation, and construction mechanism to ensure the continued future development of an efficient and economically viable high-speed rail transportation system line in this state, without which mechanism the development of such a system may be rendered economically unfeasible.

(f) The geography of the state is suitable for the construction and efficient operation of a high-speed rail transportation system line.

(g) The public use of the high-speed rail transportation system line must be encouraged and assured to achieve the public purpose and objectives set forth in ss. 341.3201-341.386 this act. In order to encourage the public use of the high-speed rail transportation system line and to protect the public investment in the system line, it is necessary to provide an environment surrounding a high-speed rail transit station which will enhance the safe movement of pedestrians and traffic into and out of the area, assure the personal and property safety of high-speed rail transportation system line users while the users are in the area of the station, and eliminate all conditions in the vicinity which constitute economic and social liabilities to the use of the high-speed rail transportation system line.

(h) Areas surrounding certain transit stations may, as a result of slums, blighted conditions, crime, and traffic congestion, pose a serious threat to the use of the high-speed rail transportation system line, reduce revenues from users, discourage pedestrian and traffic ingress and egress, retard sound growth and development, impair the public investment, and consume an excessive amount of public revenues in the employment of police and for other forms of public protection to adequately safeguard the users and the high-speed rail transportation system line. Such areas may require acquisition, clearance, disposition, or joint private and public development, as provided in ss. 341.3201-341.386 this act, to provide parking lots, stores, retail establishments, restaurants, hotels, office facilities, or other commercial, civic, residential, or support facilities appurtenant or ancillary to the high-speed rail transportation system line and transit stations and to otherwise provide for an environment which will encourage the use of, and safeguard, the facility.

(i) The powers conferred by ss. 341.3201-341.386 this act are for public uses and purposes for which public funds may be expended and the power of eminent domain may be exercised, and the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

(3)(2) Based upon the legislative findings, it is appropriate for the state to enact legislation that ~~authorizes the development of~~ ~~creates a High-Speed Rail Transportation Commission in order to develop a high-speed rail transportation system line~~ in this state utilizing existing publicly owned lands and rights-of-way whenever possible.

(4)(3) It is the purpose of the Legislature to authorize the ~~Department of High-Speed Rail Transportation Commission~~ to implement the innovative mechanisms required to effect the joint (public-and-private) venture approach to planning, locating, permitting, managing, financing, constructing, operating, and maintaining an interregional high-speed rail transportation system line for the state, including providing incentives for revenue generation, operation, and management by the private sector.

(5)(4) The legislative intent of ss. 341.3201-341.386 this act is to establish a centralized and coordinated permitting and planning process for the location of a high-speed rail transportation system and such system's lines and their construction, operation, and maintenance in order to enhance and complete the transportation system of this state for travelers, visitors, and day-to-day commuters. This necessarily involves the addressing of several broad interests of the public through the subject matter jurisdictions of several agencies. The Legislature recognizes that the location, construction, operation, and maintenance of a high-speed rail transportation system lines will have an effect upon the welfare of the population and that a centralized and coordinated permitting and planning process will help to ensure that such system results in lines produce minimal adverse effects on the environment and public health, safety, and welfare.

(5) ~~It is the intent of the Legislature that the first request for proposals by the High-Speed Rail Transportation Commission be prepared so as not to preclude any of the technologies contained in the conceptual proposals presented to the Governor's High-Speed Rail Committee.~~

(6) Upon the legislative findings, the Legislature preempts, by ss. 341.3201-341.386, this act any question, issue, or determination that the high-speed rail transportation system line is needed.

Section 63. Section 341.322, Florida Statutes, is amended to read:

341.322 Definitions of terms used in ss. 341.3201-341.386 ss. 341.321-341.386.—As used in ss. 341.3201-341.386 this act, the term:

(1) "Act" means ss. 341.321-341.386.

(2) "Administering agency" means:

(a) ~~The commission, for matters pertaining to the franchise component.~~

(b) ~~The Department of Environmental Regulation, for matters pertaining to the rail line element of the certification component.~~

(c) ~~The Department of Community Affairs for matters pertaining to the ancillary facilities element of the certification component.~~

(1)(3) "Agency," as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, political subdivision, or other unit of government within the state, including a county, municipality, or other regional or local governmental entity.

(2)(4) "Amendment" means a material change in the information provided in the application for certification a franchise, which change is made after the initial application is filed and before final action on the application has occurred.

(5) "Ancillary facilities" means ~~property, equipment, or buildings built, installed, or established to provide financing, funding, or revenues for the planning, construction, management, and operation of a high-speed rail line and shall include site specific and non-site specific ancillary facilities. The term "ancillary facilities" includes property necessary for joint development, such as parking lots, stores, retail establishments, restaurants, hotels, offices, or other commercial, civic, residential, or support facilities and may also include property necessary to protect or preserve the station area by reducing urban blight or traffic congestion or~~



property necessary to accomplish any of the above purposes which are reasonably anticipated or necessary. However, the term "ancillary facilities" does not include the rail line, transit station, or transit station appurtenant building. The ancillary facilities may be located outside the corridor, provided the ancillary facilities are located on property adjacent to the corridor or the property is connected with the transit station or transit station appurtenant building by a transit system.

(3)(6) "Applicant" means any person who responds to a request for proposals and applies for a franchise pursuant to the provisions of ss. 341.3201-341.386 this act.

(4) "Application for certification" means the documents which are required by the department to be filed by the franchisee to initiate the proceedings required for the granting of certification.

(5)(7) "Application for franchise" means the documents which are required by the department to be filed in response to the request for proposals and which order to initiate the proceedings required for the award of a franchise. Each application shall contain both a franchise component and a certification component.

(6) "Associated development" means property, equipment, or buildings which are built, installed, or established to provide financing, funding, or revenues for the planning, constructing, managing, and operating of a high-speed rail transportation system and which are directly associated with transit stations. The term includes property, including air rights, necessary for joint development, such as parking lots, stores, retail establishments, restaurants, hotels, offices, or other commercial, civic, residential, or support facilities and may also include property necessary to protect or preserve the station area by reducing urban blight or traffic congestion or property necessary to accomplish any of the above purposes which are reasonably anticipated or necessary.

(7)(8) "Board" means the Governor and Cabinet sitting as the Florida Land and Water Adjudicatory Commission.

(8)(9) "Bond" means any instrument of indebtedness, whether secured or unsecured, or any revenue bond, note, or other obligation issued on behalf of the department by the Division of Bond Finance of the Department of General Services.

(9) "Certification" means the order issued by the board which approves a high-speed rail transportation system, or a portion thereof, proposed by the franchisee, with any modifications the board considers appropriate. Upon the issuance of the certification, all terms and conditions of the franchise become terms and conditions of the certification.

(10) "Commission" means the Florida High Speed Rail Transportation Commission.

(10)(11) "Completeness," with respect to an application for certification, means that the application has addressed all applicable sections of the prescribed application for certification and format, but does not mean that those sections are sufficient in the comprehensiveness of data and or in the quality of information provided.

(11)(12) "Corridor" means the proposed area within which a high-speed rail line or guideway is to be located. The corridor must shall run between the transit stations geographic areas established by the commission as the termini. The width of the corridor proposed shall not exceed a width of 1/2 mile. After all property interests required for the high-speed rail line or guideway have been acquired by the applicant, the boundaries of the area certified shall narrow to bound only that land within the boundaries of the high-speed rail line or guideway.

(12) "Department" means the Department of Transportation.

(13) "Cost" means any cost of construction or acquisition of a high-speed rail line, including finance charges, interest, provision for working capital, reserves for principal and interest, contributions in aid of construction, expenses necessary to determine the feasibility of a proposed high-speed rail line, and all other costs necessary for placing the high-speed rail line into operation.

(14) "Development rights" means those rights created pursuant to the award of the franchise.

(13)(15) "Division" means the Division of Bond Finance of the Department of General Services.

(14)(16) "Franchise" means the document and all concomitant rights license approved by the department commission that provides the holder with the exclusive right to establish a high-speed rail transportation system and, subject to a grant of certification, the right to construct and operate a high-speed rail transportation system line between the termini selected by the commission. The award of the franchise shall be the final order of the department, but does not authorize the construction or operation of the system, or any part thereof, until the issuance of certification by the board commission and contain all the terms and conditions of the certification order of the board.

(15)(17) "Franchisee" means the any individual, corporation, or other entity that has been awarded a franchise or any nongovernmental entity or corporation that plans, constructs, finances, or operates a high-speed rail line pursuant to a franchise granted by the commission or performs any combination of such planning, construction, financing, or operation.

(16)(18) "High-speed rail transportation system line" means any high-speed fixed-guideway transportation system for transporting people or goods mass commuting, which system is capable of operating at speeds in excess of 120 miles per hour, including a monorail system, dual track rail system, suspended rail system, magnetic levitation system, or pneumatic repulsion system. The term "high-speed rail line" includes a corridor and structures essential to the operation of the line, including the land, structures, improvements, rolling stock, rights-of-way, easements, rail lines, rail beds, guideway structures, stations, platforms, switches, yards, terminals, parking lots, power relays, switching houses, transit station, associated development transit station appurtenant building, ancillary facilities, and any other facilities or equipment used or useful for the purposes of high-speed rail transportation construction, operation, or maintenance or the financing of high-speed rail transportation. Each of the facilities of a high-speed rail line shall fall within one of the definitions of the following terms: "rail line," "transit station," "transit station appurtenant building," or "ancillary facilities." The term "high-speed rail line" includes the plural.

(17)(19) "High-speed rail transportation system line right-of-way" means land necessary for the construction, operation, financing, and maintenance of the high-speed rail transportation system line. The typical width of the right-of-way must shall be identified in the application for certification. The right-of-way must shall be located within the corridor and must shall be identified by the applicant subsequent to the award of the franchise and the granting of certification in documents filed with the department commission prior to construction.

(18)(20) "Joint development" means the planning, managing management, financing, or constructing construction of projects adjacent to, or physically related, functionally related, or otherwise related to, a high-speed rail transportation system line in order to effect the policy and purposes of ss. 341.3201-341.386 this act pursuant to agreements between any person, firm, corporation, association, organization, agency, or other entity, public or private.

(21) "Level I information" means information elicited from those questions identified in the request for proposal certification component which are to be answered by each applicant in accordance with s. 341.343(2). Level I information includes, among other things, a general description of the high-speed rail line and its impacts on both the environment and local government, including, where applicable, a general discussion of mitigative measures.

(22) "Level II information" means information elicited from those questions identified in the request for proposal certification component which, at the option of an applicant, may be answered in accordance with a binding written agreement following the selection of applications by the commission for more detailed review. It shall include, among other things, a detailed presentation of the rail line element and the ancillary facilities element, including any mitigative measures for adverse impacts.

(23) "Level III information" means construction or other detailed plans and programs identified in the request for proposal which shall be provided in response to franchise conditions. Level III information is not required to be submitted as part of the application in response to the request for proposal.

(19)(24) "License" has the same meaning of the term "license" that appears in s. 120.52 s. 403.503.

(20)(25) "Local government" means a municipality or county in which any part of the high-speed rail transportation system including any associated development line is proposed to be located.



(26) "Master plan for ancillary facilities" means a document included in the application which provides in narrative form the concept and plan for the systematic development over time of each ancillary facility planned by the applicant. The master plan for ancillary facilities shall include a description of the proposed land uses and the magnitude of development in terms of acres, different land uses, square footage of commercial space, number of residential units, or other appropriate measurements of quantity for each ancillary facility.

(21)(27) "Metropolitan Planning Organization" or "M.P.O." means a metropolitan planning organization established pursuant to s. 339.175 in the jurisdiction of which any part of the high-speed rail transportation system is proposed to be located.

(22) "Modification of certification" means a change in the certification, or terms and conditions thereof, after the certification has been issued.

(23)(28) "Modification of franchise" means any material change in the franchise after issuance, including a change in the terms and conditions of the franchise where such change will not alter the terms and conditions of the certification.

(24)(29) "Modification request" means a request to modify the franchise or certification submitted pursuant to s. 341.368, including a modification to change transit stations into transit station appurtenant buildings, to relocate or add new transit stations or transit station appurtenant buildings, to change non site specific ancillary facilities into site specific ancillary facilities, to add new ancillary facilities, to modify any part of the franchise component, or to do any combination thereof.

(30) "More detailed review hearing" or "MDR hearing" means a hearing conducted by the commission to select no more than three applications for more detailed review pursuant to the act.

(31) "Mutual written agreement" means an agreement on any modification of the terms and conditions of the franchise as referred to in s. 341.368.

(32) "Non site specific ancillary facility" means an ancillary facility included in the master plan for ancillary facilities for which the applicant has not provided a metes and bounds or other legal description.

(33) "Notice of intent" means that notice which is filed with the appropriate department by the commission on behalf of one or more high speed rail line applicants prior to submission of an application pursuant to this act.

(34) "Person" has the same meaning of the term "person" that appears in s. 403.503.

(25)(35) "Rail line or guideway" means the land, fixed structures, and improvements on the land, rolling stock, power distribution systems, substations, communication and signaling systems, rights-of-way, easements, roadbeds, guideway structures, bridges, switches, platforms, yards, fixed and maintenance equipment and facilities, and any other fixed facilities or equipment used for constructing, operating, maintaining the construction, operation, maintenance, or financing of the high-speed rail transportation system, excluding associated development line, exclusive of ancillary facilities, transit stations, and transit station appurtenant buildings.

(26) "Regional comprehensive policy plan" means a comprehensive policy plan adopted by a regional planning council under chapter 186.

(27)(36) "Regional planning council" means a regional planning council as defined in chapter 186, in the jurisdiction of which council any part of the high-speed rail transportation system line is proposed to be located.

(28) "Service area" means a geographical area not smaller than a county which is identified by the department in a request for proposals as an area that is to be served by a high-speed rail transportation system through the establishment of a transit station.

(29) "Terminus" means the transit station serving the service area at the end of the high-speed rail transportation system.

(37) "Revenues" means rents, receipts, purchase payments, gifts, donations, bequests, and other income derived by the commission or franchisee from the sale, lease, proceeds from bonds, or other disposition of high speed rail line facilities; any revenues derived from joint develop-

ment and ancillary facilities; any tax increment revenues received by municipalities, counties, or other taxing units within certain boundaries adjacent to the route of the high speed rail line; any land sale revenues received by the commission, franchisee, or other entity through the sale of developed or undeveloped land adjacent to the route of the high speed rail line; and any income derived from the investment of moneys in any fund or account of the commission.

(38) "Sale" means a sale of interests in a high speed rail line for cash, whether in a lump sum or in installments, or pursuant to a lease with option to purchase in which all or part of the rent payments are credited to the purchase price.

(39) "Site" means, when used in context with ancillary facilities, the location of ancillary facilities as established by certification or, in the case of non site specific ancillary facilities, by modification of the franchise.

(40) "Site specific ancillary facility" means an ancillary facility for which the applicant has provided a metes and bounds or other legal description and which is designated for construction and operation during a time certain as specified in the franchise.

(41) "Sufficiency" means that an application is not only complete, but that all sections are sufficient in the comprehensiveness of data or in the quality of information provided.

(42) "Termini" means geographical areas not smaller than a county, which areas are identified by the commission as the areas to be served by the high speed rail line through the establishment of a transit station.

(30)(43) "Transit station" or "station" means any structure or transportation facility that is primarily used, as part of a high-speed rail transportation system line, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

(44) "Transit station appurtenant building" means a structure that is constructed in direct association with the operation of a transit station and that houses the transit station. The transit station appurtenant building may include at grade or structured parking facilities, stores, restaurants, hotels, offices, or other commercial, retail, or civic establishments, but not residential facilities.

(45) "Transit system" means a transportation facility which is capable of transporting people, or people and property, to and from the transit station or station appurtenant building to an ancillary facility and which is available for use by the public, either alone or in conjunction with another transit system.

(31)(46) "Water management district" means a water management district created pursuant to chapter 373 in the jurisdiction of which district any part of the high-speed rail transportation system line is proposed to be located.

Section 64. Section 341.325, Florida Statutes, is amended to read:

341.325 Special powers and duties of the department commission.—The department commission is empowered to perform any or all of the following special powers and duties:

(1) To engage in the planning for a high-speed rail transportation system line.

(2) To prepare and issue requests for proposals for the provision of a high-speed rail transportation system line, specifically addressing qualifications of applicants and information essential to aid the department commission in assessing specific capabilities, facilities, procedures, and mechanisms proposed by applicants for the location, innovative financing, construction, management, or operation of a high-speed rail transportation system the line and the award of a franchise in accordance with ss. 341.3201-341.386 for the length and breadth of the state based upon projected feasibility and interest expressed by potential applicants.

(3) To review the proposals from the applicants, receive and review the reports of all applicable agencies on all matters addressed by ss. 341.3201-341.386 this act, and issue a franchise to an applicant in accordance with ss. 341.3201-341.386 this act.

(4) To assess a reasonable application fee for each application for a franchise.

(5) To receive notice of the abandonment of a high-speed rail *transportation system or any portion thereof* line.

(6) To execute intergovernmental agreements ~~consistent with prevailing statutory provisions~~, including, but not limited to, special benefits or tax-increment financing initiatives.

(7) ~~To collect an annual franchise fee in an amount sufficient for the regulation of the high-speed rail line.~~

(8) ~~To establish reserve funds for future commission operations.~~

(7)(9) To dispose of any interest in property acquired pursuant to this section for high-speed rail *transportation system* line purposes for fair market value. Any conveyance or disposal of an interest in property shall carry such legally binding terms and conditions as to prevent any damage or liability to the *department commission* or the state in the event a franchisee terminates or fails to operate a high-speed rail *transportation system* line under any franchise awarded pursuant to ss. 341.3201-341.386 ~~this act~~. Notwithstanding the provisions of ss. 341.3201-341.386 ~~this act~~, any property acquired by eminent domain pursuant to ss. 341.3201-341.386 ~~this act~~ which is offered for sale because such property is determined to be surplus, or because the franchisee has for any reason abandoned the property, shall be first offered for sale to the owners or heirs of the owners from whom the property was acquired by eminent domain.

(8)(10) To adopt rules pursuant to chapter 120 to carry out the purposes of ss. 341.3201-341.386 ~~this act~~ to ensure that the high-speed rail *transportation system*, including associated development, will not unreasonably interfere with the ability of local governments to develop and implement adequate long-range comprehensive plans for well-planned growth and that local interests are balanced against state interests in establishing the high-speed rail *transportation system*.

(9)(11) To enter into agreements for the joint development of properties contiguous to, and necessary or convenient for the operation of, the high-speed rail *transportation system* line.

(10)(12) To review and approve a proposed conveyance, lease, or other transfer of property or interest from the franchisee to any other party as provided for in the franchise.

(11)(13) To prepare an annual report of operations.

(12)(14) To conduct feasibility and planning studies for high-speed rail *transportation* facilities and services.

(13)(15) To conduct feasibility studies for the determination of the most promising high-speed rail *transportation system* corridors within the state.

(14) To prepare a written analysis, pursuant to s. 341.348, of the agency reports on a certification application with recommendations as to final disposition, and appropriate terms and conditions of certification.

Section 65. Section 341.327, Florida Statutes, is amended to read:

341.327 Preemption; sole and exclusive determination of need for the high-speed rail *transportation system* line.—The Legislature expressly mandates, on the basis of its findings, that a high-speed rail *transportation system* is ~~lines~~ are needed in order to effect the public purposes of ss. 341.3201-341.386 ~~this act~~ and that ss. 341.3201-341.386 ~~are this act~~ is the sole and exclusive determination of need for any high-speed rail *transportation system* line established pursuant to ss. 341.3201-341.386 ~~this act~~, thereby preempting the determination of need and the necessity of assessing or weighing need with the impacts of any high-speed rail *transportation system* line. However, a high-speed rail *transportation system* may not ~~no such line~~ be authorized, financed, constructed, or operated other than pursuant to the franchise and certification requirements of ss. 341.3201-341.386 ~~this act~~.

Section 66. Section 341.329, Florida Statutes, is amended to read:

341.329 Bonds; project financing.—

(1) The issuance of bonds, in accordance with applicable federal and state laws and regulations, is authorized to provide sufficient funds in order to finance a high-speed rail *transportation system* line and achieve the purposes of ss. 341.3201-341.386 ~~this act~~; to pay interest on the bonds; to pay expenses incident to the issuance and sale of any bond issued pur-

suant to ss. 341.3201-341.386 ~~this act~~, including costs of validating, printing, and delivering the bonds and costs of printing the preliminary and final official statement, publishing notices of sale of the bonds, and related administrative expenses; to refinance or refund any bonds; and to pay all other capital expenditures of the *department commission* incident to, and necessary or convenient to carry out, the purposes and powers granted by ss. 341.3201-341.386 ~~this act~~. Except as provided in paragraph (6)(b), the bonds shall be payable solely from the revenues of the high-speed rail *transportation system*.

(2) The *department commission* is authorized to take appropriate action to provide that the interest on any bonds issued on behalf of the *department commission* and in the name of the *department commission* for the purposes of providing for the financing and construction of a high-speed rail *transportation system* line be exempt from federal income tax. Any exemption granted by this subsection ~~does~~ shall not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

(3) The *department commission* may determine the high-speed rail *transportation* line facilities to be financed under this section and may assess reasonable application fees or other fees to reimburse administrative costs incurred in processing applications for financing.

(4) A ~~No~~ high-speed rail *transportation* line facility is ~~not~~ eligible for financing under this section unless the *department commission* determines by resolution that a proposed facility will serve the public purposes described herein and that an applicant for financing has demonstrated compliance with the conditions of this section.

(5) Prior to the issuance of any bonds or financing under the terms of ss. 341.3201-341.386 ~~this act~~, the *department commission* shall make a comparison of the feasibility study of the franchisee and the data base study performed by a consulting firm as financed by the Federal Railroad Administration. Such comparison shall be considered in the determination of the issuance of bonds or financing under ss. 341.3201-341.386 ~~this act~~ for purposes of data comparisons, ridership estimates, and the viability of revenue availability for the retirement of bonds or other financing.

(6) A resolution authorizing any bonds issued on behalf of the *department commission* may contain, without limitation, provisions (which provisions shall be a part of the contracts with the bondholders) as to:

(a) Pledging all or any part of the revenues of the high-speed rail *transportation system* ~~commission~~ to secure the payment of bonds or any issue of the bonds, subject to such agreements with the bondholders as may then exist.

(b) Pledging all or any part of the ~~revenues assets~~ of the *department commission* to the extent permitted by the State Constitution to secure the payment of the bonds or of any issue of bonds, subject to such agreements with the bondholders as may then exist. ~~The department may pledge revenues from taxes and fees only if such taxes and fees are specifically authorized for the purpose of facilitating a high-speed rail transportation system.~~

(c) The procedure, if any, by which the terms of any contracts with the bondholders may be amended or abrogated; the amount of bonds the holders of which must consent thereto; and the manner in which such consent must be given.

(d) Vesting in trustees such property, rights, powers, and duties in trusts as the division may solely determine and limiting the rights, powers, and duties of such trustees.

(e) Defining the acts or omissions to act which constitute a default with respect to the bonds; and defining the obligations and duties of the *department commission* to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including, as a matter of right, the appointment of a receiver; however, such rights and remedies ~~may~~ shall not be inconsistent with the general laws of the state and other provisions of ss. 341.3201-341.386 ~~this act~~.

(f) Any other matters, of like or different character, which in any way affect the security or protection of the bondholders.

(7) In no event shall the full faith and credit or the taxing power of the state or any political subdivision of the state be pledged to pay the principal of the bonds, interest on the bonds, and redemption premium, if any, on the bonds or to otherwise secure the bonds.

(8) All bonds issued on behalf of the ~~department commission~~ shall state on the face thereof ~~the sources of revenue from which such bonds that they are payable solely from revenues~~, both as to the principal and interest and the redemption premium, if any, ~~that the bonds do not constitute a debt, liability, or obligation of the commission or of the state or any political subdivision of the state; and that neither the full faith and credit of the department commission nor the full faith and credit of the state or any political subdivision of the state is pledged to the payment of the principal of the bonds, the interest on the bonds, and the redemption premium, if any, on the bonds.~~

(9) All bonds issued on behalf of the ~~department commission~~ are declared to have all the qualities and incidents of negotiable instruments under the applicable laws of the Uniform Commercial Code and any other applicable laws of the state.

(10) ~~It is the intention of the Legislature that~~ Any pledge of earnings, revenues, or other moneys made by the ~~department is commission~~ be valid and binding from the time when the pledge is made, ~~that The earnings, revenues, or other moneys so pledged and thereafter received by the department are commission~~ immediately be subject to the lien of that pledge without any physical delivery of the pledge or further act, ~~and that The lien of the pledge is be valid and binding as against the department commission~~ irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created needs to be recorded or filed pursuant to the Uniform Commercial Code.

(11) All such bonds shall be issued on behalf of the ~~department commission~~, and in the name of the ~~department commission~~, by the division as provided by the State Bond Act.

(12) The provisions of the State Bond Act, including, without limitation, the definitions contained in that act, are applicable to all bonds issued pursuant to ss. 341.3201-341.386 ~~this act~~, when the provisions of the State Bond Act are not in conflict with the provisions of ss. 341.3201-341.386 ~~this act~~; provided that the basis of the award of sale of such bonds may be either the lowest net interest cost or the lowest true or effective interest cost, as set forth in the resolution authorizing the sale of such bonds. In cases of conflict, the provisions of ss. 341.3201-341.386 ~~this act~~ are controlling.

(13)(a) ~~The bonds issued on behalf of the commission shall be sold at public sale in the manner provided by the State Bond Act. However, if the commission determines by official action at a public meeting that a negotiated sale of the bonds is in the best interest of the commission, the division may negotiate for the sale of the bonds with the underwriter or underwriters designated by the division. In the official action authorizing the negotiated sale, the commission shall provide specific findings as to the reasons for the negotiated sale. The reasons shall include, but shall not be limited to, the characteristics of the bond issue and prevailing market conditions that necessitate a negotiated sale. In the event the commission decides to negotiate for a sale of the bonds, the managing underwriter, or financial consultant or adviser, if applicable, shall provide to the division, prior to the award of the bonds, a disclosure statement containing the following information:~~

1. ~~An itemized list setting forth the nature and estimated amounts of expenses incurred by the managing underwriter or underwriters in connection with the issuance of such bonds. Notwithstanding the foregoing, any such list may include an item for miscellaneous expenses, provided the item includes only minor items of expense which cannot be easily categorized elsewhere in the statement.~~

2. ~~The names, addresses, and estimated amounts of compensation of any finders connected with the issuance of the bonds.~~

3. ~~The amount of underwriting spread expected to be realized.~~

4. ~~Any management fee charged by the managing underwriter or underwriters.~~

5. ~~Any other fee, bonus, or compensation estimated to be paid by the managing underwriter or underwriters in connection with the bond issue to any person not regularly employed or retained by the underwriter or underwriters.~~

6. ~~The name and address of the managing underwriter or underwriters, if any, connected with the bond issue.~~

7. ~~Any other disclosure which the division may require.~~

~~This paragraph is not intended to restrict or prohibit the employment of professional services relating to bonds issued under this act or the issuance of bonds by the division under any other act.~~

(b) ~~In the event an offer of an issue of bonds at public sale produces no bid, or in the event all bids received are rejected, the division is authorized to negotiate for the sale of the bonds under such rates and terms as are acceptable; except that no bonds shall be so sold or delivered on terms less favorable than the terms contained in any bids rejected at the public sale.~~

(c) ~~Upon the failure of the commission or division to comply with the provisions of this section, the division shall sell all future bonds only at public sale as provided for in this section, except as provided in paragraph (b).~~

(13)(14)(a) ~~An~~ No underwriter, commercial bank, investment banker, or financial consultant or adviser ~~may not shall pay a any finder a any~~ bonus, fee, or gratuity in connection with the sale of bonds issued by the ~~department commission~~, unless full disclosure is made to the ~~department commission~~ prior to, or concurrently with, the submission of a purchase proposal for bonds by the underwriter, commercial bank, investment banker, or financial consultant or adviser and subsequently in the official statement or offering circular, if any, detailing the name and address of any finder and the amount of bonus, fee, or gratuity paid to such finder.

(b) The willful violation of this subsection is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A violation of this subsection ~~does will~~ not affect the validity of the bond issue.

(d) As used in this section, the term "finder" means a person who is neither regularly employed by, nor a partner or officer of, an underwriter, bank, banker, or financial consultant or adviser and who enters into an understanding with either the issuer or the managing underwriter, or both, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or impliedly, to act solely as an intermediary between such issuer and managing underwriter for the purpose of influencing any transaction in the purchase of such bonds.

(14)(15) There shall be established, from the proceeds of each issue of bonds, a debt service reserve account in an amount at least equal to the greatest amount of principal and interest to become due on such issue in any ensuing state fiscal year; except that a reserve of a lesser amount may be established if the division determines that such reserve, if any, will adequately protect the interests of bondholders.

(15)(16)(a) To the extent provided in the bond agreement, the title to all high-speed rail ~~transportation line~~ facilities financed by the issuance of the bonds shall be held in the name of the state, and the title to other high-speed rail ~~transportation line~~ facilities may be held in the name of the state or encumbered as may be determined by the division in its discretion as necessary to provide for the security of the issuance of the bonds. ~~If in the event that the title to any high-speed rail transportation line facility financed by the issuance of the bonds is not held by the state, then the title shall be pledged as security for the bonds by the owner of such title.~~

(b) The ~~department commission~~ may lease such facilities to a franchisee or enter into such agreements as are authorized by ss. 341.3201-341.386 ~~this act~~.

1. Any such lease agreement may provide for the transfer of title to such facilities only when such bonds have been retired and the holders of all outstanding bonds issued to finance such facilities have received all principal, interest payments, and redemption premiums to which the holders are legally entitled.

2. Any lease or other contractual arrangement between the ~~department commission~~ and a franchisee qualified under ss. 341.3201-341.386 ~~this act~~, together with such other fees, rents, or charges imposed by the ~~commission~~ pursuant to ss. 341.3201-341.386 ~~this act~~, shall provide sufficient revenues to the ~~department commission~~ to allow the ~~commission~~ to satisfy all outstanding obligations as the obligations come due.

(16)(17)(a) The division is authorized to engage the services of investment banking, financial, advisory, legal, or other consultants to plan, review, or structure any financing, bonding, or other financial requirements of a high-speed rail ~~transportation system line~~.

(b) If the division is requested to issue bonds to finance all or part of a high-speed rail transportation system line, the director of the division may contract for the services of commercial or investment banking interests, financial advisory consultants, and bond counsel to plan, review, structure, or advise as to any financing or bonding requirements associated with the high-speed rail transportation system line.

(17)(18) Neither the employees members of the department commission nor any person executing the bonds of the department is commission will be liable personally on the bonds or will be subject to any personal liability or accountability by reason of the issuance of the bonds.

Section 67. Section 341.331, Florida Statutes, is amended to read:

341.331 Service designation; termini.—The department commission shall designate in the request for proposals the areas of the state that in which the high-speed rail transportation system line will serve. The transit stations serving the ending service areas of the system shall be designated as operate and shall designate the ends of the high-speed rail line to be the termini. A proposal received from an applicant may propose or suggest to utilize any route or specific station locations that which meet the provisions of the request for proposals proposal pursuant to s. 341.3334 s. 341.338. The franchisee may propose to add, relocate, or delete transit stations in a certification application or may propose the segmental construction or operation of the system. Approval of the certification containing such proposals constitutes approval of the proposals.

Section 68. Section 341.332, Florida Statutes, is amended to read:

341.332 Franchises.—

(1) The award of a franchise by the department commission to an applicant is will be the sole license and authority for the franchisee to establish a high-speed rail transportation system, to enter into post-franchise agreements with the department for the planning, engineering, and designing of each phase of the system, and to apply for certification to construct, and operate, and maintain the rail transportation system, or any segment thereof, including transit stations and associated developments line, transit station, and transit station appurtenant building; however, the franchisee must comply with the State Minimum Building Codes requirements of s. 553.73 as the requirements apply to transit stations and transit station appurtenant buildings. The franchisee shall specify and include such minimum design standards and specifications for the construction, operation, and maintenance of the rail line as are submitted by the franchisee and adopted by the commission. It is the responsibility of the commission, or its designee, to enforce and otherwise assure compliance with the State Minimum Building Codes applicable to transit stations and transit station appurtenant buildings. The award of the franchise will constitute approval of the master plan for the ancillary facilities. However, all permits and licenses, except those under chapter 390, shall be required for ancillary facilities as provided in subsection (2).

(2) The department commission may make the award of the franchise subject to such terms and conditions, including the posting of a performance bond for the construction and operation of the high-speed rail transportation system line, as the department considers commission deems appropriate and consistent with the provisions of ss. 341.3201-341.386 this act. The department commission may not delete, alter, or amend the terms and conditions of the order of the board on the certification component, except as provided for in s. 341.361. All of the terms and conditions of the order of the board on the certification component shall become be incorporated as the terms and conditions of the award of the franchise. The franchise shall list all permits and licenses necessary for the construction and operation of the ancillary facilities. All agencies shall grant and approve all appropriate permits and licenses necessary for the construction and operation of the ancillary facilities with terms and conditions consistent with the franchise terms and conditions. The franchisee must shall comply with all applicable nonprocedural agency rules, regulations, orders, and ordinances unless in the certification franchise the franchisee is expressly exempted, or granted a waiver, from the rules, regulations, orders, and ordinances.

(3) A franchise shall be awarded for a period of time of no less than 30 years from the date of the award as provided for in the franchise.

(4) A franchise shall authorize the franchisee to provide service between termini as established by the franchise commission in its request for proposals. However, the award of the franchise shall not be construed to prohibit new or improved service by any railroad company or any rail

passenger route existing on January 1, 1993 1984. The franchisee, with the assistance of the department, shall coordinate its facilities and services, as specified in the franchise, with railroad companies or passenger routes and with commuter rail authorities and public transit providers to make effective transportation services available to the public and to provide access to and from the high-speed rail transportation system.

(5) The franchise may, at the discretion of the department, authorize the franchisee to construct, improve, operate, and maintain transportation facilities, such as railroads other than high-speed rail, on an interim basis as part of an incremental plan to create and establish the high-speed rail transportation system.

(6)(5) A franchisee shall not convey, lease, or otherwise transfer any high-speed rail transportation system line property, any interest in such property, or any improvement constructed upon such property to any other person during the term of the franchise without written approval of the department. The department shall not approve such conveyance, lease, or transfer if, in the opinion of the department commission, such conveyance, lease, or transfer will adversely affect impact:

(a) The overall quality or level of service;

(b) The overall financial feasibility of the high-speed rail transportation system line; or

(c) The overall continued operation or maintenance of the high-speed rail transportation system line.

(7) The department shall provide terms and conditions in the franchise to ensure that the franchisee will continue operation of the high-speed rail transportation system for the duration of the term of the franchise or, if the franchise is revoked, suspended, or abandoned, that financial and other necessary resources are available to continue operation of the system until another franchisee is selected or until the department determines that operations must cease.

Section 69. Section 341.3331, Florida Statutes, is created to read:

341.3331 Request for proposals.—

(1) The department shall prepare a request for proposals to obtain the information necessary for the department to select a franchisee and to award a franchise. The citizens' planning and environmental advisory committee created by s. 341.344 shall evaluate the proposed request for proposals about the content and format and make recommendations.

(2) Before issuing the request for proposals, the department shall hold one or more public meetings for the purpose of receiving comments, criticisms, or suggestions.

Section 70. Section 341.3332, Florida Statutes, is created to read:

341.3332 Notice of issuance of request for proposals.—The department shall provide notice in the Florida Administrative Weekly of the issuance of the request for proposals issued pursuant to s. 341.3331. The department shall also provide written notice to the Department of Community Affairs, to the Department of Environmental Regulation, and to those persons who have requested in writing to be notified of the issuance of the request for proposals.

Section 71. Section 341.3333, Florida Statutes, is created to read:

341.3333 Application for franchise.—

(1) The application for franchise, which is the response to the request for proposals, must correspond to the request for proposals. The contents of the application must be in the format and contain the information specified in the request for proposals.

(2) Each applicant, in response to the request for proposals, shall file its application with the department at the location and within the time and date limitations specified in the request for proposals. Applications filed before the deadline shall be kept sealed by the department until the time and date specified for opening. Such sealed applications are exempt from the public records law until opening. Thereafter, the applications are public record, except for materials that the applicant has segregated and labeled as confidential, with a citation to a section of the Florida Statutes that provides an exemption from the public records law. Inspection and examination of the materials asserted to be confidential shall be allowed in accordance with the provisions of chapter 119.

(3) An application that is not accompanied by the appropriate fee may not be accepted for filing.

(4) Within 7 days after filing an application for franchise with the department, an applicant must file a copy of the application with each agency listed in s. 341.352(2)(a).

(5) An application for a franchise may not be amended before the award of the franchise.

Section 72. Section 341.3334, Florida Statutes, is created to read:

341.3334 Franchise review process.—

(1) In assessing an application for franchise, the department shall consider, but is not limited to, the following:

(a) The qualifications of the applicant in terms of experience and overall ability to implement the proposal, including compliance with state requirements for the participation of women, minorities, and socially and economically disadvantaged individuals;

(b) The validity, clarity, and viability of the applicant's financing plan, including an analysis of the sources of revenue and the ability of those revenue sources to meet the funding requirements of the high-speed rail transportation system;

(c) The legislative changes necessary to implement the applicant's proposal, including any legislation providing for the financing of the high-speed rail transportation system, through bonds, foreign loans, or other means;

(d) The manner in which the applicant will meet the performance criteria specified in the request for proposals including, but not limited to, an examination of the proposed technology, system capacity, trip times, frequency of trains, and locations of transit stations;

(e) The construction, operation, maintenance, and management plan for the high-speed rail transportation system, including the ability of the proposed system to meet state and federal safety requirements and to guarantee the safe operation of the system;

(f) The extent to which the high-speed rail transportation system connects with and complements other transportation facilities and services, including airports, commuter rail systems, and other public transit systems, and the type, location, and financing of any transit connections with associated developments or joint developments in which the franchisee has an interest;

(g) The positive or negative fiscal impacts on local governments and the demand for additional local infrastructure as a result of the high-speed rail transportation system;

(h) The extent to which a proposed high-speed rail line, guideway, or transit station is consistent with the goals and policies of the state comprehensive plan, affected comprehensive regional policy plans, and affected local government comprehensive plans; and, if not consistent, how the applicant proposes that the high-speed rail line, guideway, or transit stations and such plans will be made consistent, to the maximum extent feasible, with each other and how any inconsistency with a proposed associated development will be resolved; and

(i) The impact that the high-speed rail transportation system or associated development will have on the unique environmental or cultural qualities of particular areas of the state and on the natural resources of the state, including measures proposed to mitigate any adverse effects.

(2) Within 60 days after receipt of an application, each agency that may be affected by an application shall file with the department any comments on the application in relation to the criteria contained in subsection (1) on matters within its jurisdiction.

(3) Within 90 days after the deadline for the receipt of applications, the department shall hold at least one public meeting on the applications in accordance with s. 341.3336.

(4) Within 120 days after the deadline for the receipt of applications, the department shall issue a notice of proposed agency action on the applications, in accordance with s. 341.3337.

Section 73. Section 341.3335, Florida Statutes, is created to read:

341.3335 Interagency coordination of franchise application review.—The department shall establish procedures to ensure coordination and communication among state agencies, regional entities, local governments affected by a proposed high-speed rail transportation system, the public, and the Citizens' Planning and Environmental Advisory Committee created under s. 341.344.

Section 74. Section 341.3336, Florida Statutes, is created to read:

341.3336 Public meeting on the franchise application.—

(1) Before issuing a notice of proposed agency action on the selection of a franchisee, the department shall hold one or more public meetings.

(2) At least 21 days before the meeting, the department shall publish a notice of the meeting in the Florida Administrative Weekly, briefly describing each application and generally describing the proceedings that are required by ss. 341.3201-341.386.

(3) The public meeting is for the purpose of receiving comments, information, and evidence on each proposed application and the criteria specified in subsection 341.3334(1).

Section 75. Section 341.3337, Florida Statutes, is created to read:

341.3337 Determination and award of franchise.—

(1) The department, after assessing each franchise application and after the public meeting required by s. 341.3336, shall preliminarily determine the best applicant or shall reject all applications. Upon such determination, the department shall disseminate the proposed agency action in regard to each application.

(2) The department shall provide notice of the proposed agency action to the agencies listed in s. 341.352(2)(a) and to any person who has requested to receive such notice. Such request must be in writing and filed with the department no later than the date of the last public meeting held pursuant to s. 341.3336.

(3) The notice of proposed agency action is a point of entry for a person whose substantial interest is or may be affected or determined by the department's proposed action to file a petition for an administrative proceeding under chapter 120.

(4) The provisions of chapter 120 govern the actions of the department, except that s. 120.53(5), relating to protests arising from the contract-bidding process, does not apply to the award of the franchise or the selection of a franchisee.

(5) After the conclusion of the administrative proceeding or after the expiration of the time period for filing a petition, if no petition has been filed, the department shall award the franchise to the best applicant or shall reject all applications. The award of a franchise is a final order of the department and may contain terms and conditions in accordance with the provisions of ss. 341.3201-341.386.

Section 76. Section 341.3338, Florida Statutes, is created to read:

341.3338 Effect of franchise.—The franchise shall grant to the franchisee the exclusive right to plan and establish a high-speed rail transportation system and, upon the grant of certification, to construct, operate, and maintain the system or a segment thereof within the service area and between the termini specified in the certification. No other permit, license, approval, or precondition, except as provided for in the franchise or certification, is required.

Section 77. Section 341.3339, Florida Statutes, is created to read:

341.3339 Post-franchise agreements.—

(1) The department and the franchisee shall enter into one or more post-franchise agreements to delineate in accordance with the terms and conditions of the franchise such matters as:

(a) The schedules for planning and engineering phases or segments of the high-speed rail transportation system.

(b) The schedule for obtaining certification for each segment of the system.

(c) The duties and responsibilities of the franchisee for planning, engineering, and designing the parts of the system.

(d) The arrangements for financing the phases of the system.

(e) The determination of whether a proposed associated development is consistent with the applicable comprehensive plans and, if not, a schedule and method by which the franchisee proposes to make the proposed associated development consistent.

(f) Any other item the department considers appropriate to include in a post-franchise agreement.

(2) At the issuance of a certification for the high-speed rail transportation system or a segment thereof, the post-franchise agreements become terms and conditions of the certification.

Section 78. Section 341.334, Florida Statutes, is amended to read:

341.334 Department of Transportation; powers and duties.—

(1) The Department of Transportation ~~may~~ ~~is directed to~~ grant, consistent with applicable state and federal laws, ~~multiyear vehicle operation easements within state-owned transportation facility highway rights-of-way to the franchisee of a high-speed rail transportation system line.~~ The terms of any such easements ~~must~~ ~~shall~~ coincide with the term of the franchise.

(2) ~~Upon request of the commission,~~ The Department of Transportation ~~may~~ ~~shall~~ exercise the power of eminent domain to obtain title to real property necessary to accomplish the purposes of ss. 341.3201-341.386 ~~this act~~, including property necessary for the rail or guideway line, transit station, or associated development ~~appurtenant transit station building, or ancillary facilities, for the purpose of conveyance of the property to the commission.~~ The title to such property shall be held in the name of the state and shall be administered by the ~~department commission~~ under such terms and agreements as provided for in a ~~post-franchise agreement or in the certification the franchise.~~

(3) ~~The Department of Transportation shall provide for the maintenance of records and accounts of the commission relating to all financial transactions of the commission. Such records and accounts shall at all times disclose the receipts accruing to the commission and the distribution thereof as relates to the applicable provisions of this act.~~

(4) ~~The Department of Transportation shall be reimbursed for expenditures made on behalf of the High-Speed Rail Transportation Commission.~~

Section 79. Section 341.335, Florida Statutes, is amended to read:

341.335 Powers and duties of the board.—The board has the following powers and duties:

(1) To adopt reasonable procedural rules to carry out its duties under ss. 341.3201-341.386 ~~this act~~ and to give effect to the legislative intent of ss. 341.3201-341.386 ~~this act~~.

(2) To delegate authority to the appropriate jurisdictional agency to administer ~~and enforce provisions of the certification the approval of activities occurring after the award of a franchise.~~

(3) ~~To take final action on an application for certification, including final resolution of any conflicts between a proposed high-speed rail transportation system or associated development and the state comprehensive plan, a regional comprehensive policy plan, or a local government comprehensive plan.~~

Section 80. Section 341.336, Florida Statutes, is amended to read:

341.336 Department of Environmental Regulation and Department of Community Affairs; ~~other affected agencies;~~ powers and duties.—

(1) For the purposes of ss. 341.3201-341.386 ~~this act~~, the Department of Environmental Regulation, ~~and the Department of Community Affairs, and any other agency that may be affected by a certification application~~ have the following powers and duties:

(a) ~~To receive and review applications for franchise in regard to the criteria listed in s. 341.3334 as to matters within each department's respective jurisdiction.~~

(b) ~~To be a party to an administrative or judicial proceeding involving an application for a franchise, a certification application, a franchise, or a certification.~~

(1) ~~To adopt or amend reasonable procedural rules to implement the provisions of this act.~~

(2) ~~For their respective elements of the certification component, to prescribe the form, content, and necessary supporting documentation for the elements, and any required studies to be prepared by the applicant for a franchise. All such data and studies shall be related to the matters under the jurisdiction of affected agencies required to evaluate the application.~~

(c)(3) ~~To receive the respective elements of the certification applications, component of applications for franchise from the commission and initially to determine the completeness of the applications, to review the applications for compliance with nonprocedural requirements of the agency, to prepare and file a report in accordance with s. 341.348, and to be a party to the certification proceedings.~~

(d)(4) ~~To make, or contract for, studies of matters within its jurisdiction in regard to their respective elements of the certification component.~~

(5) ~~To administer the processing of their respective elements of the certification component and ensure that the applications are processed as expeditiously as possible.~~

(6) ~~To notify all affected agencies of the filing of their respective elements of the certification component, and of the filing of subsequent amendments, within 15 days after receiving the complete elements, or subsequent amendments, and to provide such agencies with copies of the filed elements or amendments.~~

(7) ~~To receive the reports of all agencies on their respective elements of the certification component of each application.~~

(8) ~~To prepare a written analysis, which analysis shall be filed with the designated hearing officers and all parties no later than 10 months after the complete and sufficient element of the certification component is filed with the department, and which analysis shall include:~~

(a) ~~The reports and studies required by s. 341.348, including the recommendations of the department relating to the disposition of the application.~~

(b) ~~The comments received from any other agency.~~

(9) ~~To provide public notice of the filing of their respective elements of the certification component and of the proceedings conducted pursuant to this act.~~

(e)(10) ~~To assist the department commission in monitoring the effects arising from the location of the high-speed rail transportation system line corridor and the construction, operation, and maintenance of the high-speed rail transportation system line, in order to assure continued compliance with the terms of the certification.~~

(2) ~~The Department of Environmental Regulation, is responsible for assisting affected agencies in analyzing the environmental impacts of a proposed high-speed rail transportation system and for providing data and other information to those agencies for use in the preparation of the reports required by s. 341.348, shall coordinate with other state agencies having jurisdiction over environmental matters, and shall provide information and technical assistance on environmental issues to the Citizens' Planning and Environmental Advisory Committee at the request of the chairman.~~

(3) ~~The Department of Community Affairs is responsible for assisting affected agencies in analyzing the land use, growth management, comprehensive-planning aspects of a proposed high-speed rail transportation system, and for providing data and other information to those agencies for use in the preparation of the reports required by s. 341.348, and shall provide information and technical assistance on land use, growth management, and comprehensive-planning issues to the Citizens' Planning and Environmental Advisory Committee at the request of the chairman.~~

Section 81. Section 341.3365, Florida Statutes, is created to read:

341.3365 Certification procedures.—

(1) The department shall adopt a rule for processing a certification application and shall develop an application form that requires the submission of information necessary for the affected agencies to review in determining whether an application is entitled to certification in accordance with the requirements of ss. 341.3201-341.386. The application form may incorporate, by reference, the appropriate application forms adopted by other agencies. The application form must require that any associated



development that the franchisee wishes to have included in the certification be identified as provided for by s. 341.365 and must require that sufficient information be provided for the agencies to review and determine whether any proposed associated development is entitled to certification.

(2) The franchisee shall file the certification application, in the form and manner specified by department rule, with the department and with each affected agency, together with any required fee.

Section 82. Section 341.338, Florida Statutes, is repealed.

Section 83. Section 341.339, Florida Statutes, is repealed.

Section 84. Section 341.342, Florida Statutes, is amended to read:

341.342 Agreements concerning contents of certification component of application and supporting documentation.—The Department of Transportation, with the concurrence of the Department of Environmental Regulation and the Department of Community Affairs shall establish by rule a procedure by which an applicant, after public notice, may enter into binding written agreements with the franchisee such departments and other affected agencies as to the scope, quantity, and level of information to be provided in the certification component of the application, as well as the methods to be used in providing such information and the nature of the supporting documents to be included in the certification component of the application.

Section 85. Section 341.343, Florida Statutes, is amended to read:

341.343 Review of application.—

(1) The department shall coordinate the review of the certification application with the other affected agencies of Environmental Regulation has the responsibility for coordinating the review of the rail line element of the certification component and for reviewing such element for completeness; and the Department of Community Affairs has the responsibility to do likewise for the ancillary facilities element. The commission has the responsibility for reviewing the franchise component for completeness.

(2) If an agency the commission, the Department of Environmental Regulation, or the Department of Community Affairs determines that its respective part of the certification application is incomplete, that agency the commission or department making such determination shall provide in writing to the applicant a statement of the desired additional information within 30 days after of the receipt of the application. The applicant may supply the information requested and, if the applicant intends to supply the information, shall communicate its intention to do so in writing to the agency requesting the information within 5 working days after of the receipt of the statement requesting such information; or the applicant shall notify the appropriate agency in writing that the requested information will not be supplied, in which case the application shall be processed as filed. Unless otherwise agreed upon by the agency requesting the information and by the applicant, the information must be provided within 60 days after the request. Within 30 days after receipt of such additional information, the respective agency shall review such additional information and may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information. If an applicant does not provide the information requested within 120 days after of the initial request for the applicant to provide it, or within a time period agreed upon by the applicant and the respective agency, the application is shall be considered withdrawn.

(3) The certification application is deemed complete when each agency having jurisdiction:

(a) Finds the application complete; or

(b) Fails to notify the applicant within 30 days after the receipt of the application or a request for additional information that the application is incomplete. When the Department of Environmental Regulation and the Department of Community Affairs determine that the rail line element and ancillary facilities element, respectively, are complete, the departments shall notify the Franchise and Environmental Review Committee and forward copies of the certification component to that committee.

(4) The commission shall review all the applications within 60 days of receipt of the recommendation of the committee, but it may extend the 60-day period for selection for more detailed review if required in order

to accommodate amendments or for other good cause. In reviewing applications, the commission shall utilize the criteria set out in s. 341.338, select no more than three applications for more detailed review pursuant to the provisions of this act. However, if there are fewer than three applications, there is no necessity for the committee to make recommendations to the commission.

(4) Within 10 days after receipt of a certification application, the department

(5) Upon selecting the applications for more detailed review, the commission shall request the Division of Administrative Hearings to designate a panel of three hearing officer officers to conduct the certification hearing hearings required by this act.

(6) Within 30 days of the selection of the applications for a more detailed review, the commission, the Department of Environmental Regulation, and the Department of Community Affairs shall review their respective parts of each of the selected applications for sufficiency. Should the commission, the Department of Environmental Regulation, or the Department of Community Affairs determine that its respective part of the application is insufficient for it to discharge its responsibilities under this act, it shall provide in writing to the applicant a statement of the desired additional information within such 30-day period. The applicant may supply the information requested and, if the applicant intends to supply the information, shall communicate its intention to do so in writing to the agency requesting the information within 5 working days of the receipt of the statement requesting such information; or the applicant shall notify the appropriate agency in writing that the requested information will not be supplied. Within 30 days after receipt of such additional information, the respective agency shall review such additional information and may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information. If an applicant does not provide the information requested within 120 days of the request for the applicant to provide it, or within a time agreed upon by the applicant and the respective agency, the application shall be considered withdrawn.

(5)(7) If an amendment to a certification application is proposed and deemed complete sufficient more than 30 days prior to the local government hearings held pursuant to s. 341.347, each agency must conduct a review of the amendment and include its comments in its report under this section and s. 341.348, and the amendment must be reviewed in the local government hearings under s. 341.347.

(6)(8) If an amendment to a certification application is proposed later than the time period described in subsection (5)(7), the proposed amendment must be reviewed by the Department of Environmental Regulation, to determine the impact of the amendment on the rail line element of the certification component and by the Department of Community Affairs, and the Department of Transportation to determine the impact of the amendment on matters within their respective jurisdictions commission to do likewise for the ancillary facilities of the certification component and the franchise component, respectively. Within 30 days after the receipt of the proposed amendment, if any of the foregoing administering agencies determines determine that the amendment is such that either additional time or information is required in order to adequately review and analyze the proposed amendment or additional local government hearings are appropriate, the agency shall advise the hearing officer officers and all parties commission in writing of the need for the additional time. Upon receipt, the hearing officer officers and commission shall delay enter appropriate orders delaying the date of the certification hearing or the hearing on the franchise component in order to give all parties ample opportunity to review and analyze the impacts of the proposed amendment or to conduct the necessary local government hearing.

(9) The commission shall have the sole responsibility for the review and assessment of the franchise component.

Section 86. Section 341.344, Florida Statutes, is amended to read:

341.344 Citizens' Planning Franchise and Environmental Advisory review Committee.—

(1) The department shall establish the Citizens' Planning and Environmental Advisory Committee to review the requests for proposals and the applications for franchise and to make recommendations to the department. There is established a Franchise and Environmental Review Committee to provide recommendations to the commission on the certifi-

~~education component of the application for franchise. The committee shall be composed of the Executive Director of the Department of Natural Resources, the Executive Director of the Game and Fresh Water Fish Commission, the Secretary of Environmental Regulation, the Secretary of Community Affairs, the Secretary of Commerce, and the Secretary of Transportation, or their respective designees. In addition, The Governor shall appoint two members as representatives of environmental organizations, two members as representatives of local general-purpose governments, two members as minority representatives with equal employment opportunity and disadvantaged business enterprise experience, and two members as representatives of the business community of the state. The chairman of the committee shall be elected by the members of the committee. The chairmanship of the committee shall rotate annually in the order of the naming of the committee members specified in this subsection.~~

(2) The committee shall hold periodic meetings at the request of the chairman. The Department of ~~Transportation Environmental Regulation~~ shall provide primary support staff to the committee and ensure that committee meetings are electronically recorded. Such recordings shall be preserved pursuant to chapters 119 and 257 267.

(3) Within 3 6 months after receipt of the notification that the certification ~~application component~~ is complete, the committee shall provide the ~~department and each affected agency commission~~ with its written recommendation on the certification. In making its recommendation, the committee shall consider:

(a) Whether, and the extent to which, the proposed high-speed rail ~~transportation system line~~ will have a favorable or unfavorable impact on the environment and natural resources of the state;

(b) The extent to which the proposed high-speed rail ~~transportation system line~~ will enhance or adversely affect existing communities contiguous to or within the corridor of the proposed high-speed rail ~~transportation system line~~;

(c) Whether, and the extent to which, the proposed high-speed rail ~~transportation system line~~ will comply with the provisions of ss. 341.3201-341 386 ~~this act~~; and

(d) The extent to which local governments and the economy of the area within which the high-speed rail ~~transportation system line~~ is located will be ~~affected~~ impacted.

(4) The committee, prior to making its recommendations to the ~~department commission~~, shall hold public meetings in the vicinity of the proposed corridors so as to provide the public with an opportunity to comment on the applications.

(5) ~~The report of the committee is admissible as evidence in any certification proceeding or administrative hearing. Within 60 days after the committee renders its written recommendation to the commission, and prior to the selection by the commission of the applicants for a more detailed review, an applicant may amend its application in response to the comments presented to, or the recommendations of, the committee.~~

Section 87. Section 341.345, Florida Statutes, is amended to read:

341.345 Alternate corridors or transit station locations.—

(1) ~~Within 60 days after the publication of the notice of the certification application. Prior to the selection by the commission of applications for more detailed review, any party may propose alternate high-speed rail transportation system line corridor routes or transit station locations for consideration pursuant to the provisions of ss. 341.3201-341.386 this act by filing a notice of a proposed alternate corridor or transit station location with the department, the hearing officer, all parties to the proceeding, commission and any local governments in the jurisdictions of which the alternate corridor or transit station location is proposed. Such filing must shall include a description of the proposed corridor, a statement of the reasons the proposed alternate should be certified, and the most recent United States Geological Survey quadrangle maps on the scale of 1:24,000 that specifically delineate the corridor boundaries of the corridor or facility in question, and all information and data that is required for a certification application.~~

(2) ~~If the franchisee accepts a proposed alternative as part of its certification application, the franchisee shall file an amendment to its application adopting that alternative.~~

Section 88. Section 341.346, Florida Statutes, is amended to read:

341.346 Appointment of hearing ~~officer officers~~; powers and duties; ~~alteration of times.~~—

(1) Within 10 days after receipt of a request by the ~~department commission~~ to designate a panel of hearing ~~officer officers~~, the director of the Division of Administrative Hearings shall designate a ~~three~~ hearing ~~officer officers~~ to conduct the hearings required by ss. 341.3201-341.386 ~~this act~~. Whenever practicable, the division director shall assign a hearing ~~officer officers~~ who ~~has have had~~ prior experience or training in this type of certification proceeding. Upon being advised that a hearing ~~officer~~ has ~~officers have been~~ designated, the ~~department commission~~ shall immediately file a copy of the certification ~~application component~~ and all supporting documents with the hearing ~~officer officers~~, who shall docket the application.

(2) The hearing ~~officer officers~~ shall have all powers and duties granted to hearing officers by chapter 120 and by the laws and rules of the department, including the authority to resolve disputes over the completeness and ~~sufficiency~~ of a certification ~~an application for franchise~~.

(3) ~~Any time limitation in this act may be altered by the hearing officers upon stipulation among the Department of Environmental Regulation and the Department of Community Affairs and an applicant unless objected to by any party within 5 days after notice or for good cause shown by any party.~~

Section 89. Section 341.3465, Florida Statutes, is created to read:

341.3465 Alteration of time limitations.—Any time limitation specified in ss. 341 3201-341.386 may be altered by stipulation by the department and the applicant, if approved by a hearing officer, if the hearing officer has jurisdiction over the proceeding; by the department, if no hearing officer has jurisdiction; or by the board, if it has jurisdiction; unless objected to by any party within 5 days after notice, or for good cause shown by any party.

Section 90. Section 341.347, Florida Statutes, is amended to read:

341.347 Local government hearings.—

(1) Within 3 4 months after a ~~certification application has been determined to be receipt of a copy of any one or more complete and sufficient applications~~, each local government shall conduct at least one combined public meeting and land use and zoning hearing to assure that there is substantial input from the affected community, in order to:

(a) Receive public input on matters within the jurisdiction of the local government on ~~the one or more~~ proposed high-speed rail ~~transportation system lines~~;

(b) Determine whether ~~the any one or more~~ proposed high-speed rail ~~transportation system is lines will be~~ consistent with the local government comprehensive plan and any ~~land development regulation zoning ordinance~~ enacted pursuant to such plan and prepared pursuant to s. 163.3184;

(c) Correct any deficiencies or make any changes necessary in the plan or ~~in the land development regulation zoning ordinance~~ to assure compliance or to make a clear statement that ~~the high-speed rail transportation system, including any transit station or associated development, is lines are~~ inappropriate in certain land use categories or zoning districts; and

(d) Formulate its recommendation with respect to ~~each of the~~ proposed high-speed rail ~~transportation system lines~~.

(2) The local government shall arrange for publication of notice of the local land use and zoning hearing in accordance with the requirements of s. 125.66(5)(b) or s. 166.041(3)(c), whichever is applicable. The cost of such notice ~~shall be paid by the franchisee may be charged against the application fee.~~

(3) A transcript or written record of the hearing shall be made to be included as evidence at the certification hearing. The cost of such transcript or written record ~~shall be paid by the franchisee may be charged against such application fee on a prorated basis.~~

(4) A specific finding of consistency or lack of consistency shall be made and shall be included in the report required of the local government pursuant to s. 341.348.

Section 91. Section 341.348, Florida Statutes, is amended to read:

341.348 Reports and studies.—

(1) In order to verify or supplement the information in a certification application studies made by each applicant in support of its rail line element and ancillary facilities element, reports of the agencies specified as listed in s. 341.352(2) shall be prepared, and submitted to the appropriate department and the hearing officer, and made available for other parties to review or copy. Neither the failure to submit a report nor the inadequacy of the report is a ground will be grounds to deny or condition certification. Each reviewing agency shall initiate the activities required by this section as soon as each application is received. Each agency shall keep the franchisee each applicant informed as to the progress of its studies and any issues raised by the studies.

(2)(4) The reports shall be submitted to the appropriate department no later than 4 8 months after the applications have been determined to be complete sufficient for inclusion in the agency analysis. The failure of any agency to submit a report, or to submit its report within the allowed time, is will not be a ground for the alteration of any time limitation in ss. 341.3201-341.386 this act. Each report must shall contain:

(a) An assessment of the impacts of the each proposed high-speed rail transportation system line as determined by the studies required by this section.

(b) An assessment of the expected compliance with the standards of the agency and an identification of any nonprocedural requirements not specifically listed in any one such application, from which requirements a variance or exemption is needed in order for the board to certify the high-speed rail transportation system corridor.

(c) The conclusions and recommendations regarding certification, including the reasons for recommendations of denial, if the agency recommends denial of certification.

(d) The proposed conditions of certification, if the agency is of the opinion that feels certification should be granted, including an identification of areas in which more data may be needed to be reviewed after certification in order to assure the compliance of the features of the high-speed rail transportation system line with agency standards when specific design criteria were not available until after certification.

(3)(2) Each agency shall prepare a report on the certification application each element as to the impact of the each proposed high-speed rail transportation system line as it relates to matters within the jurisdiction of the agency. The Department of Transportation, the Department of Environmental Regulation, and the Department of Community Affairs may request that any other agency perform studies and prepare reports as to matters within the jurisdiction of that other agency, which matters may be affected by the each proposed high-speed rail transportation system line.

(4) The Department of Transportation shall prepare a written analysis of the agency reports on the certification application, which analysis shall be filed with the designated hearing officer and all parties no later than 30 days after the due date for receipt of the local government reports prepared pursuant to this section. The analysis must include:

(a) In regard to the reports and studies required by s. 341.348, a list and a summary of the reports and studies and the location where the reports or study results are available for public inspection and copying;

(b) The comments received from a party which is not an agency;

(c) The reports and recommendations of the planning and environmental advisory committee;

(d) The conditions of certification considered appropriate by the department.

(e) The recommendations of the department relating to the disposition of the certification application.

Section 92. Section 341.351, Florida Statutes, is amended to read:

341.351 Publication of notice of certification application and proceedings relating to high-speed rail line; contents of notice.—

(1) Upon the filing of a certification application No later than 15 days after the receipt of each application selected for a more detailed review, the Department of Transportation Environmental Regulation

and the Department of Community Affairs shall arrange for simultaneous publication of a notice of the each application and of the proceedings required by ss. 341.3201-341.386 this act and of the deadline for filing notice of intent to be a party. The notice must be published within 30 days after the filing of the application.

(2) The department of Environmental Regulation and the Department of Community Affairs shall arrange for publication of a notice of the certification hearing and other public hearings provided for in this section and a notice of the deadline for filing notice of intent to be a party. Such notices shall be published at least 30 80 days before the date set for the hearing.

(3) Notices shall be published:

(a) In a newspaper of general circulation within each county crossed by the high-speed rail transportation system line corridor. The required newspaper notices must, other than the reminder notice, each shall be one-half of a page in size in a standard-size newspaper or a full page in a tabloid-size newspaper. Each notice must These notices each shall include a map generally depicting the all proposed high-speed rail transportation system line corridors. A newspaper of general circulation within a county is shall be the newspaper that has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notices must shall appear in both the newspaper having the largest circulation in that county and in a newspaper authorized to publish legal notices in that county;

(b) In the Florida Administrative Weekly; and

(c) By giving notice To any persons who have requested to be placed on the departmental mailing lists for this purpose.

(4) The departments shall adopt rules specifying the contents of notices required by this section. The applicant shall pay for the all published notices, which payment is shall be in addition to the application fee. The departments shall arrange for publication of the notices required by this section.

Section 93. Section 341.352, Florida Statutes, is amended to read:

341.352 Certification hearing.—

(1) No later than 6 11 months after receipt of the applications that have been determined to be complete sufficient, the hearing officer officers shall conduct a certification hearing, pursuant to s. 120.57, at a central location.

(2)(a) The parties to the certification proceeding are shall be:

1. The franchisee Each applicant.
2. The Department of Commerce.
3. The Department of Environmental Regulation.
4. The Department of Transportation.
5. The Department of Community Affairs.
6. The Department of Natural Resources.
7. The Game and Fresh Water Fish Commission.
8. Each water management district.
9. Each local government.
10. Each regional planning council.
11. Each metropolitan planning organization.

(b) Any party listed in paragraph (a) may waive its right to participate in the proceeding. If any listed party fails to file, on or before the 30th day prior to the certification hearing, a notice of its intent to be a party, such party is shall be deemed to have waived its right to be a party, unless its participation in the proceeding would not prejudice the rights of any party to the proceeding.

(c) Notwithstanding the provisions of chapter 120 to the contrary, after upon the filing with the hearing officer officers of a notice of intent to be a party by an agency or corporation or association described in subparagraph 1. or subparagraph 2., or a petition for intervention by a person described in subparagraph 3., no later than 30 days prior to the date set for the certification hearing, any of the following entities also shall be a party to the proceeding:

1. Any state agency not listed in paragraph (a), as to matters within its jurisdiction.

2. Any domestic nonprofit corporation or association that is formed, in whole or in part, to promote conservation of natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent labor, commercial, or industrial groups; or to promote the orderly development, or maintain the residential integrity, of the area in which the proposed high-speed rail transportation system line is to be located.

3. Any person whose substantial interests are affected and being determined by the proceeding.

(d) Any agency, the property or works of which agency may be affected by the proceeding, shall be made a party upon the request of the agency or any party to this proceeding.

(3) When appropriate, any person may be given an opportunity to present oral or written communications to the hearing officer officers. If the hearing officer proposes officers propose to consider such communications, all parties shall be given an opportunity to cross-examine with respect to, or to challenge or rebut, such communications.

(4) At the conclusion of the certification hearing, the hearing officer officers shall, after consideration of all the evidence of record, issue a recommended order to the board disposing of the applications. The hearing officer officers shall issue the recommended order no later than 60 days after the transcripts of the certification hearing and the public hearings are filed with the Division of Administrative Hearings.

Section 94. Section 341.353, Florida Statutes, is amended to read:

341.353 Final disposition of certification application component.—

(1) Within 30 days after receipt of the hearing officer's officers' recommended order, the board shall act upon the each certification application component by written order, which order shall approve the certification component in whole, approve the certification component with such modifications and conditions that as the board considers deems appropriate, or deny the certification. The and which order must shall state the reasons for issuance or denial of certification.

(2) In determining whether the a certification application component should be approved in whole, approved with modifications or conditions, or denied not approved, the board shall consider whether, and the extent to which, the location, construction, operation, and maintenance of the high-speed rail transportation system line will:

- (a) Comply with nonprocedural requirements of agencies;
  - (b) Be consistent with applicable local government comprehensive plans and land development regulations as defined in s. 163.3164 zoning ordinances;
  - (c) Have a favorable or unfavorable impact on the environment and natural resources of the state;
  - (d) Efficiently use or unduly burden water, sewer, solid waste disposal, or public transportation facilities or other necessary public facilities; and
  - (e) Be consistent with the applicable criteria and related policies adopted by local governments, regional planning councils, and the state.
- (3) The terms and conditions of the certification order become terms and conditions of the franchise.

(4) If the board incorporates in its final certification order a term or condition that requires the franchisee to modify or revise a post-franchise agreement, the department shall provide the franchisee with a reasonable period of time to enter into a modified agreement.

(5) If the board incorporates in its final certification order a term or condition that results in the necessity for a local government to amend or modify its local comprehensive plan, the board shall allow the local government a reasonable period of time to amend or modify the plan.

Section 95. Section 341.355, Florida Statutes, as amended by section 34 of chapter 90-227, Laws of Florida, is repealed.

Section 96. Section 341.358, Florida Statutes, is repealed.

Section 97. Section 341.361, Florida Statutes, is repealed.

Section 98. Section 341.363, Florida Statutes, is amended to read:

341.363 Effect of certification franchise; ss. 341.3201-341.386 act to take precedence.—

(1) With respect to the rail line, guideway, and any transit station identified in the certification, and transit station appurtenant building, and subject to the conditions set forth in the franchise and certification, the franchise and the certification constitute constitute the sole license of the state, and of any agency, as to the approval of the location of these facilities and the construction, operation, and maintenance of these facilities. The certification is will be valid for the term of the franchise, if provided construction is commenced within 3 years and operation is commenced within 6 5 years after of the date of certification franchise or a such later date as may be authorized by the board commission.

(2) With respect to the associated developments specified in the certification or in any modification to the certification ancillary facilities, the certification is franchise shall be the commission's license and authority for the franchisee to construct and operate the associated developments ancillary facilities. The certification must franchise shall list any additional post-certification all permits and licenses necessary for the construction, operation, and maintenance of the associated developments ancillary facilities. The certification must also list any exemption from a permitting or licensing requirement. The franchisee shall obtain any permit or license, otherwise required by law, before post-certification approval, unless, in the certification, the permit or license is exempted. Upon application by the franchisee, all agencies shall grant and approve all appropriate permits and licenses necessary for the construction, operation, and maintenance of the associated developments ancillary facilities, with terms and conditions consistent with the franchise and certification terms and conditions. The franchisee shall comply with all applicable agency rules, regulations, orders, and ordinances in constructing, operating, and maintaining the associated developments ancillary facilities, unless in the certification franchise the franchisee is expressly exempted, or granted a waiver, from the rules, regulations, orders, and ordinances.

(3) The certification authorizes franchise shall authorize the franchisee applicant to locate, the rail line, transit station, and transit station appurtenant building and to construct, operate, and maintain, the high-speed rail transportation system these facilities subject only to the conditions of certification franchise set forth in the franchise and to all non-procedural standards or regulations of any agency, unless a variance to such requirements or any requirements and conditions of the certification franchise is granted by the board. The certification franchise may include conditions that which constitute variances and exemptions, otherwise allowed by law, from nonprocedural standards or rules of any other agency, which conditions were expressly considered during the proceeding, unless there is a waiver by the agency as provided below in this subsection, and which conditions otherwise would be applicable to the location, of the rail line, transit station, or transit station appurtenant building or to the construction, operation, and maintenance of the high-speed rail transportation system these facilities. The conditions of the certification or franchise relative to the actual operation of the train, including, but not limited to, train speed, control, vibration, electrification systems, rail structures, vehicles, safety, noise, or noise barriers, shall take precedence over any inconsistent nonprocedural standards, rules, or local regulations. Each party shall notify the applicant and other parties at least 60 days prior to the certification hearing of any nonprocedural requirement not specifically listed in the application from which a variance or exception is necessary in order for the board to certify any corridor proposed for certification. The failure to provide such notification shall be treated as a waiver, variance, or exception, otherwise allowed by law, from nonprocedural standards or regulations of the department or any other agency.

(4)(a) Pursuant to specific conditions of the certification, a franchisee franchise, an applicant may be required to file site-specific technical data after the award of the franchise in order to facilitate the monitoring of the franchisee's applicant's compliance with the conditions of the franchise and certification and to provide reasonable assurance that substantive agency standards will be met. Accordingly, data requirement provisions which would be required in the absence of a franchise process shall be followed, and an approval or denial statement shall be issued, within the time period timeframe provided by agency rules for such permitting or as otherwise provided in the condition of certification or franchise; however, any person whose substantial interests are determined by such a statement shall not have the right to contest the statement or to have

an administrative proceeding in order to determine the propriety of such action beyond that already provided by ss. 341.3201-341.386 ~~this act as part of the franchise or certification proceedings.~~

(b) Since the site of the high-speed rail ~~transportation system line~~ will have been established by certification, the issue of postcertification approval or denial ~~is shall be~~ limited to the technical merits of providing reasonable assurance of compliance with substantive agency standards or to the onsite location of a facility feature, but not to the location of the site itself. Construction may occur on other components of the facility prior to action on postcertification review conditions so long as no construction occurs which will affect the feature or component at issue. The agency ~~having in the jurisdiction of which the matter at issue resides~~ shall review construction plans to determine whether such construction will or will not affect the feature or component at issue. Postcertification review may be the basis for the imposition or modification of other conditions or amendments to the conditions.

(c) With respect to the rail ~~transportation system line, transit station, and transit station appurtenant building~~, the ~~board commission~~ may delegate the authority to approve or deny construction or operation plans ~~submitted pursuant to a condition of certification which are submitted after the award of certification franchise pursuant to a condition of the franchise.~~ Such delegation shall be made to the agency which requested, and has the authority for administration of, that condition of the ~~certification franchise.~~ Disputes over such approvals or denials shall be resolved in accordance with chapter 120. Copies of all approval or denial letters shall be sent to the ~~department commission~~ for recordkeeping purposes. ~~The department shall, and the applicant or delegating agency may request that the commission~~ coordinate the scheduling of hearings ~~to ensure that a dispute is timely processed in accordance with chapter 120;~~ however, the ~~department commission~~ is not responsible for arbitration of disputes over any approvals or denials.

(5) With respect to the high-speed rail ~~transportation system, the certification may exempt the franchisee from rail line, transit station, and transit station appurtenant building~~, the franchise will be in lieu of any license, permit, certificate, or similar document required by any agency pursuant to, but not limited to, chapter 125, chapter 161, chapter 163, chapter 166, chapter 253, chapter 258, chapter 298, chapter 370, chapter 373, chapter 380, chapter 381, chapter 387, chapter 403, or chapter 404, or the Florida Transportation Code. On the award of the ~~certification franchise~~, any license, easement, or other interest in state lands, except those lands the titles of which lands are vested in the Board of Trustees of the Internal Improvement Trust Fund, shall be issued by the appropriate agency as a ministerial act. The applicant shall be required to seek any necessary interest in state lands the titles to which lands are vested in the Board of Trustees of the Internal Improvement Trust Fund from the board of trustees before, during, or after the franchise or ~~certification~~ proceeding; and the award of the franchise or ~~certification~~ may be made contingent upon the issuance of the appropriate interest in realty. However, in any proceeding before the Board of Trustees of the Internal Improvement Trust Fund in which proceeding the applicant is seeking a necessary interest in state lands, neither the applicant nor any party to the franchise or ~~certification~~ proceeding may directly or indirectly raise or relitigate a matter which was or could have been an issue in the franchise or ~~certification~~ proceeding shall be available for review by the board of trustees and its staff.

(6) A No term or condition of franchise or ~~certification may not shall~~ be interpreted to preclude the postcertification exercise by any party of whatever procedural rights the party may have under chapter 120, including those rights related to rulemaking proceedings.

(7) The award by the ~~department commission~~ of the franchise is a final agency action appealable ~~under pursuant to~~ s. 120.68. Also, the award by the board of certification is a final agency action appealable under s. 120.68.

Section 99. Section 341.364, Florida Statutes, is amended to read:

341.364 Appeals to board.—~~If In the event~~ any agency renders a development order, as defined in chapter 380, that is inconsistent with the terms and conditions of the franchise or ~~certification~~, the franchisee ~~has will have~~ the right to appeal the development order to the board. Such review ~~is will be~~ a de novo proceeding.

Section 100. Section 341.365, Florida Statutes, is created to read:

341.365 Associated development.—

(1) The franchisee, alone or as part of a joint development, may undertake any associated development included in the certification.

(2) To be eligible for inclusion in the certification, an associated development must:

(a) Be proposed by the franchisee;

(b) Be adjacent to or physically connected to a transit station having pedestrian ingress to and egress from the station;

(c) Be a source of revenue for the establishment, construction, operation, or maintenance of the rail line or the operation and maintenance of service; and

(d) Be in compliance with the provisions of ss. 341.3201-341.386.

(3) The department may adopt rules that provide guidance for the preparation and review of an associated development in relation to a comprehensive plan; provide guidance for nonadversarial resolution of a dispute between the franchisee and an agency pertaining to an associated development; and provide guidance for amending a local government comprehensive plan in order to facilitate the establishment of a high-speed rail transportation system. The department shall consult with other agencies in the preparation and adoption of the rules, including the Department of Community Affairs, on matters relating to comprehensive planning.

(4) Sections 341.3201-341.386 do not prohibit the franchisee or a party to a joint venture with a franchisee from obtaining approval, pursuant to any other law, for any associated development that has been determined to be reasonably related to the high-speed rail transportation system.

Section 101. Section 341.366, Florida Statutes, is amended to read:

341.366 Recording of notice of certified corridor route.—Within 60 days after the award of ~~certification a franchise~~ for a high-speed rail ~~transportation system line~~ pursuant to ss. 341.3201-341.386 ~~this act~~, the ~~department commission~~ shall, in accordance with s. 28.222, file a notice of the certified route with the clerk of the circuit court for each county through which the corridor will pass. The notice ~~must shall~~ consist of maps or aerial photographs on the scale of 1:24,000 that clearly show the location of the certified route, and the notice ~~must shall~~ state that the certification of the corridor will result in the acquisition of rights-of-way within the corridor. Each clerk shall record and maintain the filing of the notice in the official record of the county ~~until for the period that is the duration of the certification expires or for the period until such time as the applicant certifies to the clerk that all lands required for the high-speed rail transportation system line rights-of-way within the corridor have been acquired within such county, whichever event occurs first period expires sooner.~~ The recording of this notice ~~does will~~ not constitute a lien, cloud, or encumbrance on real property.

Section 102. Section 341.368, Florida Statutes, is amended to read:

341.368 Modification of ~~certification or franchise~~.—

(1) ~~Following award of a franchise~~, The franchise ~~and the certification~~ may be modified in any one of the following ways:

(a) Upon its own motion, the ~~department commission~~ may initiate proceedings to modify specific conditions in the franchise or ~~certification~~ when the modification is deemed essential for the protection of the public health, safety, or welfare.

(b) The franchisee may request modification of the franchise or ~~certification~~ at any time.

(2) If no party to the ~~franchise proceeding objects in writing to the proposed modification of the franchise~~, if no party to the certification proceeding objects in writing to the ~~proposed modification~~ ~~modifications set forth in a modification request~~ within 45 days after notice mailed to the last address of record, and if no other person whose substantial interest is affected by the modifications objects in writing within 30 days after the issuance of public notice, the ~~department commission~~ may modify the terms and conditions of the franchise.

(3) If the modification affects lands located within the jurisdiction of a local government, notice of the modification shall be provided to the governing body of said local government. Each affected local government ~~is shall be~~ entitled to participate in the modification proceeding regardless of whether the local government participated in the ~~original~~ certification proceeding.



(4) If the ~~department commission~~ finds that the modification request requires no changes or additions to the terms and conditions in the certification ~~component~~, then within 90 days after publication of notice of the modification request the ~~department commission~~ shall act upon the modification request by rendering a written order. The order shall modify the terms and conditions of the franchise ~~or certification~~, provided that:

- (a) No written objection has been filed pursuant to subsection (2);
- (b) The ~~department commission~~ has considered, ~~as applicable~~, the criteria enumerated in s. 341.3334 ~~or 341.355 or s. 341.353(2)~~; and
- (c) The ~~department commission~~, based on the record presented, concludes that the modification request should be granted.

(5) If the parties to the franchise ~~or certification~~ proceeding are not able to reach a mutual written agreement on any modification of the terms and conditions of the franchise, the applicant may file a petition for modification with the ~~department commission~~. The petition must ~~shall~~ set forth:

- (a) The proposed modification;
- (b) The factual reasons asserted for the modification; and
- (c) The anticipated additional environmental effects of the proposed modification.

(6) If the proposed modification requires changes or additions to the terms and conditions in the certification, ~~the board must make final disposition of the petition, unless otherwise agreed in writing by all parties. The department is responsible for processing the petition in accordance with chapter 120 and, if necessary, presenting the matter to the board for final disposition component, the proposed modification shall be subject to additional requirements as specified in rules adopted by the commission. After an initial review by the commission, the proposed modification shall be forwarded to the board for consideration.~~

- ~~(a) The board shall render an order on the proposed modification.~~
- ~~(b) In the event the board approves the modification subject to terms and conditions, such terms and conditions shall be included by the commission in its final order on the modification request.~~
- ~~(c) Upon receipt of the board's order, the commission shall consider whether any modification of the franchise terms and conditions is required by reason of the board's order. The commission's action on the modification request shall be in the form of a final order which shall constitute final agency action.~~

(7) The effect of the ~~department's commission's~~ final order modifying the terms and conditions of the franchise shall be ~~that as follows:~~

- (a) the terms and conditions of the final order ~~are shall be~~ incorporated into and made a part of the terms and conditions of the franchise as if granted by the original award of franchise.
- ~~(b) With regard to ancillary facilities, upon application by the franchisee or its designee, all agencies shall grant and approve all appropriate permits and licenses necessary for the location, construction, operation, and maintenance of the ancillary facilities. All agency permits and licenses shall be consistent with the terms and conditions of the franchise as modified. The order shall list all applicable agency rules, regulations, orders, and ordinances from which the franchise is expressly exempted or granted a waiver, as the case may be.~~

(8) ~~The terms and conditions of a final order of the board on a proposed modification shall be incorporated into and made a part of the terms and conditions of certification.~~

Section 103. Section 341.369, Florida Statutes, is amended to read:

341.369 Fees; disposition.—The ~~department commission~~ shall charge each applicant the following fees:

- (1) An initial ~~nonrefundable franchise~~ application fee of \$5,000, to be submitted to the ~~department commission~~ in order to pay for those costs associated with the conduct of the Franchise and Environmental Review Committee.
- ~~(2) Application fees, including:~~
- ~~(a) A franchise component fee in an amount determined by the commission, not to exceed \$20,000 per applicant.~~

~~(2)(a)(b) A certification application component fee at the rate of \$2,000 for each mile of proposed high-speed rail transportation system line corridor, to be paid to the department commission upon the filing of the certification application component after the selection of the applicants for more detailed review. A minimum fee of \$60,000 is shall be required for each application.~~

1. The certification ~~application component~~ fee shall be used ~~first~~ to pay those expenses associated with the costs of the preparation and conduct of the hearings, the recording and transcription of the proceedings, ~~the studies required by this act, and agency travel and per diem. Salaries for full-time state agency employees, excluding other personal services employees, may not be charged against the fee.~~

2. If any sums remain after the payment of such expenses, the ~~certification component~~ fee shall be applied pro rata to reimburse all reasonable expenses pursuant to ss. 341.3201-341.386 ~~this act~~ incurred by the agencies that prepared and filed reports pursuant to s. 341.348. Any sums remaining after the payment of all authorized costs shall be refunded to the applicant within 90 days after the issuance or denial of the certification ~~franchise~~ or the withdrawal of the application. The applicant shall be provided with an itemized accounting of the expenditures.

~~3. Agencies entitled to receive reimbursement from the fee are those agencies required to prepare the reports required by this act, and any other agencies from which the departments request special studies.~~

~~(b)(e) If a corridor alignment change is proposed by the applicant, a required application amendment fee. The minimum amount of the fee is will be \$3,000 plus \$2,000 for each mile of realignment. An No additional fee may not shall be required if a no corridor alignment change is not proposed.~~

~~(c)(d) A certification modification fee, to be submitted to the department commission upon notification by the applicant that modification pursuant to s. 341.368(2) and (3) is sought, and to be used, disbursed, and accounted for in the same manner as the certification application component fee. If a no corridor alignment change is not proposed, the certification modification fee is will be \$3,000. If a corridor alignment change is proposed by the applicant, the certification modification fee is will be \$3,000 plus \$2,000 for each mile of realignment.~~

~~(3) A franchise fee in an annual amount determined by the commission to be sufficient to cover the cost associated with the regulation of the high-speed rail line.~~

Section 104. Section 341.371, Florida Statutes, is amended to read:

341.371 Revocation or suspension of franchise ~~or certification~~.—A franchise ~~or certification~~ may be revoked or suspended for:

- (1) Any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant, ~~if when~~ a true answer would have warranted a refusal by the ~~department commission~~ to award the franchise in the first instance.
- (2) The failure to comply with the terms or conditions of the franchise ~~or certification~~.
- (3) The violation of the provisions of ss. 341.3201-341.386 ~~this act~~ or rules or orders issued under ss. 341.3201-341.386 ~~this act~~.

Section 105. Section 341.372, Florida Statutes, is amended to read:

341.372 Administrative fine in lieu of revocation or suspension of franchise.—

(1) If the ~~department commission~~ finds that one or more grounds exist for the discretionary revocation or suspension of a franchise ~~or certification~~ issued pursuant to ss. 341.3201-341.386 ~~this act~~, the ~~department commission~~ may, in lieu of such revocation or suspension, impose a fine upon the franchisee.

(2) With respect to any willful violation, such fine ~~may shall~~ not exceed \$25,000 per violation per day.

(3) With respect to any nonwillful violation, such fine ~~may shall~~ not exceed \$2,500 per violation per day. ~~In no event shall~~ Such fine, for all nonwillful violations, ~~may not~~ exceed an aggregate amount of \$10,000 per day ~~for all nonwillful violations~~.



(4) *This section does not prohibit the department, or other agencies for matters within their respective jurisdictions, from enforcing the terms and conditions of the franchise or certification by civil action in a court of competent jurisdiction, including seeking injunctive relief.*

Section 106. Section 341.375, Florida Statutes, is amended to read:

341.375 Participation by women, minorities, and socially and economically disadvantaged individuals encouraged; plan for compliance.—It is the intent of the Legislature and the public policy of this state that women, minorities, and socially and economically disadvantaged business enterprises be encouraged to participate fully in all phases of economic and community development. Accordingly, to achieve such purpose, the franchisee of a high-speed rail transportation system ~~line~~ shall, in accordance with applicable state and federal law, involve and utilize women, minorities, and socially and economically disadvantaged business enterprises in all phases of the design, construction, maintenance, and operation of the high-speed rail transportation system ~~line~~ developed under the auspices of ss. 341.3201-341.386 ~~this act~~. Each applicant for a franchise shall provide to the department ~~commission~~ a plan for compliance with the intent and requirements of this section; and each franchisee shall regularly provide to the department ~~commission~~ such proof of its continuing compliance as the department ~~commission~~ requires to ensure that the franchisee remains in compliance with the provisions of this section.

Section 107. Section 341.381, Florida Statutes, is amended to read:

341.381 Applicability.—The provisions of ss. 341.3201-341.386 ~~this act~~ apply to the ~~each~~ high-speed rail transportation system, including transit stations and associated developments ~~line~~.

Section 108. Section 341.382, Florida Statutes, is amended to read:

341.382 Superseded laws and regulations.—If any provision of ss. 341.3201-341.386 ~~this act~~ is in conflict with any other provision, limitation, or restriction which is now in effect under a law of this state or an ordinance of a local government, political subdivision, or municipality, or a rule or regulation adopted under such law or ordinance, ss. 341.3201-341.386 ~~control this act controls~~.

Section 109. Section 341.383, Florida Statutes, is amended to read:

341.383 Authority of local government to assess fees.—~~Sections 341.3201-341.386 do not prohibit Nothing in this act prohibits a local government from assessing reasonable impact fees, special assessments, service charges, or user fees with respect to a rail transportation system line, transit station, or associated development transit station appurtenant building.~~

Section 110. Section 341.385, Florida Statutes, is repealed.

Section 111. Section 341.386, Florida Statutes, is amended to read:

341.386 Award of franchise and certification admissible in eminent domain proceedings; attorney's fees and costs.—

(1) The award of a franchise and of a certification pursuant to ss. 341.3201-341.386 ~~are this act~~ is admissible as evidence of public need and necessity in proceedings under chapter 73 or chapter 74.

(2) A ~~No~~ party may not rely on this section or any provision of chapter 73 or chapter 74 to request the award of attorney's fees or costs that incur ~~are incurred~~ as a result of participation in the franchise or certification proceeding.

Section 112. Present subsection (7) of section 20.17, Florida Statutes, is renumbered as subsection (8), and a new subsection (7) is added to that section to read:

20.17 Department of Commerce.—There is created a Department of Commerce.

(7) The Department of Commerce, in cooperation with the Florida International Affairs Commission and the Florida Seaport Transportation and Economic Development Council, shall establish a public-private partnership for the purpose of creating a comprehensive trade data resource and research center to be known as the "Florida Trade Data Resource and Research Center."

(a) The department, commission, and council shall prepare an operational plan for the management and establishment of the Florida Trade Data Resource and Research Center within 90 days after the

effective date of this act. The operational plan shall contain a budget that includes, but is not limited to, the acquisition of equipment, data, personnel, and other related services.

(b) The department shall contract with the center for the purpose of developing a trade information system that includes, but is not limited to, timely import and export information; trade opportunities; intermodal transportation information that measures cargo flow by transportation mode; commodity trends; trade activity between Florida and specific countries; and other information as determined by the department, commission, and council. In addition, this agreement must:

1. Provide the budget and cost for services provided by the department and for operating the center;

2. Provide that funding for the budget will be paid from appropriations provided by the Legislature, contributions received from other parties, and any fees collected through the sale of trade research and data; that the department will assist in gathering trade data and information; that the department will assist in providing research on trade opportunities in specific countries; that the department will have complete access to all information produced by the center; that the department and its foreign offices may provide a computer link-up with the center; that the department and the center will develop a plan that provides for the sale, promotion, and packaging of information provided by the center and the department to both Florida and non-Florida businesses; that the department and the center will set fees to be charged for the acquisition of trade data and information by third parties; and that fees may be paid to the department by cash, credit card, or electronic transfer; and

3. Provide any other terms and conditions required to effect the intent of the Legislature to promote the development of a public-private partnership for the purposes enumerated in this subsection.

(8)(7) The Department of Commerce may adopt rules to carry out any of the statutory duties and purposes of the department or its divisions.

Section 113. Paragraph (a) of subsection (1) of section 288.012, Florida Statutes, is amended to read:

288.012 Foreign offices.—

(1) The Department of Commerce is authorized to:

(a) Establish and operate offices in foreign countries in the execution of its responsibilities for promoting the development of tourism, and the economic development of the state, and the gathering of trade data information and research on trade opportunities in specific countries.

Section 114. Paragraph (d) is added to subsection (11) of section 288.025, Florida Statutes, and a new subsection (20) is added to that section, to read:

288.025 Division of International Trade and Development; powers and duties.—The general purposes of the Division of International Trade and Development of the Department of Commerce shall be to guide, stimulate, and promote the coordinated, efficient, and beneficial economic development of the state and its regions, counties, and municipalities to businesses and consumers in other countries in accordance with present and future needs and resources and the requirements of the prosperity, convenience, comfort, health, safety, and general welfare of the people of the state. For the accomplishment of such purposes, the division shall have powers and duties including, but not limited to, the following:

(11) Assist in coordinating the resources available to businesses engaged in the export of goods or services, helping those businesses to:

(d) Locate and subscribe to trade data information and research.

(20) Provide assistance as required in the gathering, storing, promoting, packaging, and selling of trade data for the purpose of establishing and maintaining a comprehensive trade data resource and research center available to both Florida and non-Florida businesses.

The Division of Economic Development shall provide all assistance necessary to the Division of International Trade and Development in the performance of the above duties.

Section 115. Subsection (10) of section 288.03, Florida Statutes, is amended to read:

288.03 Powers and duties of Division of Economic Development.—The general purposes of the Division of Economic Development of the Department of Commerce shall be to guide, stimulate, and promote the coordinated, efficient, and beneficial development of the state and its regions, counties, and municipalities in accordance with present and future needs and resources and the requirements of the prosperity, convenience, comfort, health, safety, and general welfare of the people of the state. For the accomplishment of such purposes, the division shall have the power and authority to make expenditures for and to:

(10) *Provide assistance as required in the gathering, storing, promoting, packaging, and selling of trade data for the purpose of establishing and maintaining a comprehensive trade data resource and research center available to both Florida and non-Florida businesses. Establish a data bank available to Florida businesses which provides information on commercial opportunities in international trade.*

Section 116. Section 341.053, Florida Statutes, is amended to read:

341.053 Intermodal Development Program; administration; eligible projects; limitations.—

(1) There is created *within the Department of Transportation* an Intermodal Development Program to provide road, rail, or ~~for major capital investments in fixed-guideway transportation systems~~, access to, from, or between seaports, airports, and other transportation terminals; to provide for the construction of intermodal or multimodal terminals; and to otherwise facilitate the intermodal or multimodal movement of people and goods, including through the construction assist in the development of dedicated bus lanes.

(2) ~~The Intermodal Development Program shall be administered by the department.~~

(3) ~~The department shall review funding requests from a rail authority created pursuant to chapter 343. The department may include projects of the authorities, including planning and design, in the tentative work program.~~

(2)(4) ~~In any fiscal year, a minimum of one third of intermodal development funds shall be distributed in accordance with the distribution formula defined in s. 339.135(4)(a). No single transportation authority operating a fixed-guideway transportation system, or single fixed-guideway transportation system not administered by a transportation authority, receiving funds under the Intermodal Development Program shall receive more than 33 1/3 percent of the total intermodal development funds appropriated in any fiscal year between July 1, 1990, and June 30, 2015. In determining the distribution of discretionary funds under the Intermodal Development Program in any fiscal year, the department shall assume that future appropriation levels will be equal to the current appropriation level. If in any fiscal year the appropriation level is such that meeting the requirements of this subsection becomes impossible, the requirements of this subsection are suspended.~~

(3)(5) The department is authorized to fund projects within the Intermodal Development Program, which are consistent, to the maximum extent feasible, with approved local government comprehensive plans of the units of local government in which the project is located, according to the following priorities:

(a) ~~First, major capital investments in public rail and fixed-guideway transportation facilities and systems which provide intermodal access and which, if approved after July 1, 1991, have complied with the requirement of the department's major capital investment policy.~~

(b) ~~Second, other major capital investments in fixed-guideway transportation facilities and systems which, if approved after July 1, 1991, have complied with the department's major capital investment policy.~~

(c) ~~Third, investments in dedicated bus lanes and road access to seaports and airports.~~

(4) ~~The department may fund only capital projects under the Intermodal Development Program.~~

Section 117. Section 73.091, Florida Statutes, is amended to read:

73.091 Costs of the proceedings.—~~Except~~ As provided in s. 73.092, the petitioner shall pay all reasonable costs of the proceedings in the cir-

cuit court, including, but not limited to, a reasonable attorney's fee, reasonable appraisal fees, and, when business damages are compensable, a reasonable accountant's fee, to be assessed by that court.

Section 118. Section 73.092, Florida Statutes, is amended to read:

73.092 Attorney's fees; costs.—

(1) In assessing reasonable attorney's fees in eminent domain proceedings, the court shall award a reasonable fee not to exceed a total of one-third of the benefit ~~give greatest weight to the benefits resulting to the client from the services rendered. However, the court may award an additional fee if the court makes a specific and express finding setting forth the extraordinary circumstances that warrant the additional fee.~~

(a) As used in this section, the term "benefit" ~~"benefits"~~ means the difference between the amount of the final judgment covering land, improvements, and severance damages or settlement and the last written offer made by the condemning authority before suit was filed. The term also includes the difference between the amount of the final judgment for business damages and the offer made, if any, by the condemning authority for business damages within 90 days of receipt of all books and records to be used by the defendant in support of such business damage claim at trial. Any books and records not provided shall not be used by the defendant in support of the business damage claim at trial the defendant hires an attorney. If no written offer is made by the condemning authority before the defendant hires an attorney, benefits must be measured from the first written offer after the attorney is hired.

1. ~~In determining attorney's fees in prelitigation negotiations, benefits do not include amounts awarded for business damages unless the business owner provided financial records to the condemning authority, upon written request, prior to litigation.~~

2. ~~In determining attorney's fees subsequent to the filing of litigation, if financial records are not provided to the condemning authority prior to litigation, benefits for amounts awarded for business damages must be based on the first written offer made by the condemning authority within 120 days after the filing of the eminent domain action. If the condemning authority makes no written offer to the defendant for business damages within 120 days after the filing of the eminent domain action, benefits for amounts awarded for business damages must be based on the difference between the final judgment or settlement and the last written offer made by the condemning authority before the defendant hired an attorney.~~

(b) ~~In exceptional circumstances, the court may also consider and include within the definition of "benefit" nonmonetary benefits that would not have been obtained but for the efforts of which the attorney obtains for the client. In making an award for nonmonetary benefits, the court must specifically and expressly state the nature of the nonmonetary benefits achieved.~~

(2) ~~In assessing attorney's fees in eminent domain proceedings, the court shall give secondary consideration to:~~

(a) ~~The novelty, difficulty, and importance of the questions involved.~~

(b) ~~The skill employed by the attorney in conducting the cause.~~

(c) ~~The amount of money involved.~~

(d) ~~The responsibility incurred and fulfilled by the attorney.~~

(e) ~~The attorney's time and labor reasonably required adequately to represent the client in relation to the benefits resulting to the client.~~

(3) ~~At least 30 days prior to a hearing to assess attorney's fees under this section, the condemnor's attorney shall submit to the condemning authority and to the court complete time records and a detailed statement of services rendered by date, nature of services performed, time spent performing such services, costs incurred, and a copy of any fee agreement which may exist between the condemnor and his attorney.~~

(4) ~~In determining the amount of attorney's fees to be paid by the petitioner, the court shall be guided by the fees the defendant would ordinarily be expected to pay if the petitioner were not responsible for the payment of fees and costs.~~

(2)(5) The amount of attorney's fees to be paid by the defendant pursuant to a fee agreement entered into between the defendant and his attorney must be reduced by the amount of any attorney's fees awarded by the court.

(3) Reasonable attorney's fees for apportionment and supplementary proceedings shall be determined based upon the number of hours reasonably expended in providing the services performed and the reasonable hourly rate for the services in the community.

(4) The condemnor shall pay all reasonable costs of the proceeding in the circuit court provided that such costs are considered in relationship to the value of the parcel acquired and the benefit achieved by the litigation. In determining the amount of costs to be paid by the petitioner, the court shall be guided by the costs the defendant would ordinarily be expected to pay if the petitioner were not responsible for the payment of fees and costs.

(5) The defendant must file a notice with the court and the petitioner within 180 days of the date of suit setting forth the subject areas in which expert testimony is anticipated to be needed, together with the numbers of witnesses needed in each area and the estimated costs of their services. Upon the filing of objections by the petitioner within 10 days of service of the notice, the court shall determine, at the request of the petitioner, the reasonableness of the estimated costs proposed to be incurred by the defendant. The petitioner may waive the provisions of this subsection to facilitate settlement.

(6) Notwithstanding any other provision of law, if an offer of judgment made by the petitioner, pursuant to s. 73.032, is rejected and the verdict or judgment is less than or equal to the offer of judgment, no attorney's fees or costs shall be awarded for time spent by the attorney or costs incurred after the time of rejection of the offer, except for apportionment or other supplemental proceedings.

Section 119. Section 337.271, Florida Statutes, is amended to read:

337.271 Negotiations for acquisitions.—

(1) The department shall negotiate in good faith with the owner of a parcel to be acquired and shall attempt to arrive at an agreed amount of compensation to be paid for the parcel.

~~(2) At the inception of negotiation for acquisition, the department shall notify the fee owner of the following:~~

~~(a) That all or a portion of his property is necessary for a transportation facility or transportation corridor;~~

~~(b) The nature of the project for which the parcel is deemed necessary, the project number, and the parcel designation of the property to be acquired;~~

~~(c) The district office of the department from which the owner may obtain right-of-way maps reflecting the proposed taking;~~

~~(d) The fee owner's statutory rights under ss. 73.091 and 73.092; and~~

~~(e) The fee owner's rights and responsibilities under subsections (3), (4), (5), and (6).~~

~~(3) The notice shall be sent by certified mail, return receipt requested, to the fee owner's last known address listed on the county ad valorem tax roll. Notice to one owner constitutes notice to all owners on multiple ownership property. The return of the notice as undeliverable by the postal authorities constitutes compliance with this provision. The department is not required to give notice to a person who acquires title to the property subsequent to the notice required by this section.~~

~~(4) The fee owner may, within 120 days after receipt of the notice required by subsection (2) or at a later date specified by the department, submit a complete appraisal report relating to the parcel to be acquired. The fee owner may waive his right to the 120 days to obtain an appraisal by providing the department with written notice of such waiver. If a report is submitted, it shall contain all data and information upon which the appraiser's conclusions are based and shall be prepared by a state-certified real estate appraiser as defined in chapter 475 and who has been qualified by the department. A list of those state-certified real estate appraisers, as defined in chapter 475, currently qualified by the department shall be attached to the letter submitted to the fee owner. On multiple ownership property, the fee owner is collectively entitled to only one appraisal report.~~

~~(5) If the business owner intends to claim business damages pursuant to s. 73.071(3)(b), he may, within 120 days after receipt of the notice required by subsection (2) or at a later time specified by the department, submit to the department a complete estimate of business damages to the~~

~~property. The fee owner may waive his right to the 120 days to obtain an estimate of business damages by providing the department with written notice of such waiver. If an estimate is submitted, it shall explain the nature and extent of such damages and shall be prepared by either the owner or a certified public accountant. If the business owner elects to submit an estimate of business damages to the department, he shall also permit the department to copy and examine, at the owner's convenience, such of his business records as the department determines to be necessary for it to arrive at an estimate of business damages.~~

(2)(6) Upon submission of an invoice which complies with the requirements of this subsection, the department shall pay all reasonable costs, including reasonable attorney's fees, incurred on behalf of a property owner who proceeds to prelitigation negotiation settlement pursuant to the provisions of this section. The attorney's fees shall be based upon the criteria of s. 73.092. The invoice shall include complete time records and a detailed statement of services performed and time spent performing such services. Reasonable appraisal or accountant fees as authorized by this section shall not exceed the general or customary hourly rate for appraisal or accounting fees in the community. If the parties cannot agree on the amount of costs and attorney's fees to be paid by the department, the property owner may file a complaint in the circuit court in the county where the property is located to recover reasonable attorney's fees and costs.

(3)(7) Within 30 days after receipt of the fee owner's appraisal report and the estimate of business damages if submitted, the department shall submit to the owner all appraisal reports prepared for the department which relate to the owner's parcel and any estimate of business damages prepared.

(4)(8) After receipt of the appraisal report prepared for the fee owner and the estimate of business damages if submitted, the department shall make a written offer of purchase to the fee owner and business owner, if any, which includes the value of the land and improvements taken and any business or severance damages.

(5)(9) After exchanging appraisal reports and business damage reports, the parties may jointly agree to submit the compensation and business damage claims to nonbinding mediation. The mediation may be held after the eminent domain action is filed, if the department must file the action to meet construction schedules. The parties shall agree upon a mediator certified pursuant to s. 44.302.

(6)(10) If the department agrees to mediation, the fee owner or business owner may submit to the department an invoice, which complies with this section, for payment for the appraisal reports, business damage reports, and other reasonable costs. Upon receipt of such invoice, the department shall promptly pay a reasonable appraisal fee, reasonable accountant's fee, and other reasonable costs. If the parties cannot agree on the amount of costs to be paid by the department, the property owner may file a complaint in the circuit court in the county in which the property is located to recover reasonable costs.

(7)(11) Evidence of negotiations, or evidence of any written or oral statements used in mediation, conducted by the parties pursuant to this section is not admissible in any subsequent proceeding.

Section 120. The amendments to ss. 73.091, 73.092, and 337.271, Florida Statutes, contained in this act apply to all actions filed after the effective date of this act.

Section 121. Paragraph (a) of subsection (2) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The division shall have the following powers, duties, and functions:

(2)(a) To plan and coordinate purchases in volume and to negotiate and execute purchasing agreements and contracts for commodities and contractual services under which the division shall require state agencies to make purchases and under which a county, municipality, private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Transportation Disadvantaged Commission, or other local public agency may make purchases. Purchases by any county, municipality, private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Transportation Disadvantaged Commission, or other local public agency under the provisions in the state purchasing contracts, and purchases, from the corpora-

tion operating the correctional work programs, of products or services that are subject to paragraph (1)(f), are exempt from the competitive sealed bid requirements otherwise applying to their purchases.

Section 122. Subsection (1) of section 427.011, Florida Statutes, is amended, and subsection (13) is added to that section to read:

427.011 Definitions.—For the purposes of ss. 427.011-427.017:

(1) "Transportation disadvantaged" means those persons who because of physical or mental disability, income status, or age ~~or who for other reasons~~ are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk or at-risk as defined in s. 411.202.

(13) "Nonsponsored transportation disadvantaged services" means transportation disadvantaged services that are not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund.

Section 123. Present paragraphs (f), (g), (h), (i), (j), and (k) of subsection (1) of section 427.012, Florida Statutes, are redesignated as paragraphs (g), (h), (i), (j), (k), and (l), respectively, and a new paragraph (f) is added to that subsection to read:

427.012 Transportation Disadvantaged Commission.—There is created a Transportation Disadvantaged Commission in the Department of Transportation.

(1) The commission shall consist of the following members:

(f) *The secretary of the Department of Elderly Affairs or his designee.*

Section 124. Subsections (22), (23), and (24) are added to section 427.013, Florida Statutes, to read:

427.013 Transportation Disadvantaged Commission; purpose and responsibilities.—The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged. In carrying out this purpose, the commission shall:

(22) *Develop needs-based criteria that must be used by all community transportation coordinators to prioritize the delivery of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.*

(23) *Establish a review procedure to compare the rates proposed by alternate transportation operators with the rates charged by a community transportation coordinator to determine which rate is more cost-effective.*

(24) *Conduct a cost-comparison study of single-coordinator, multi-coordinator, and brokered community transportation coordinator networks to ensure that the most cost-effective and efficient method of providing transportation to the transportation disadvantaged is programmed for development.*

Section 125. Present subsection (8) of section 427.0155, Florida Statutes, is renumbered as subsection (9), and a new subsection (8) is added to that section to read:

427.0155 Community transportation coordinators; powers and duties.—Community transportation coordinators shall have the following powers and duties:

(8) *In cooperation with the coordinating board and pursuant to criteria developed by the Transportation Disadvantaged Commission, establish priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.*

Section 126. Present subsections (4) and (5) of section 427.0157, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and a new subsection (4) is added to that section to read:

427.0157 Coordinating boards; powers and duties.—The purpose of each coordinating board is to develop local service needs and to provide information, advice, and direction to the community transportation coordinators on the coordination of services to be provided to the transportation disadvantaged. The commission shall, by rule, establish the member-

ship of coordinating boards. The members of each board shall be appointed by the metropolitan planning organization or designated official planning agency. The appointing authority shall provide each board with sufficient staff support and resources to enable the board to fulfill its responsibilities under this section. Each board shall meet at least quarterly and shall:

(4) *Assist the community transportation coordinator in establishing priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.*

Section 127. Subsection (3) of section 427.0159, Florida Statutes, is amended to read:

427.0159 Transportation Disadvantaged Trust Fund.—

(3) Funds deposited in the trust fund may be used by the commission to subsidize a portion of a transportation disadvantaged person's transportation costs which is not sponsored by an agency, only if a cash or in-kind match is required. *Funds for nonsponsored transportation disadvantaged services shall be distributed based upon the need of the recipient and according to criteria developed by the Transportation Disadvantaged Commission.*

Section 128. Section 427.016, Florida Statutes, is amended to read:

427.016 Expenditure of local government, state, and federal funds for the transportation disadvantaged.—

(1) All transportation disadvantaged funds shall be expended to purchase transportation services from public, private, or private nonprofit transportation operators, *except when the rates charged by proposed alternate operators are proven, pursuant to review procedures established by the Transportation Disadvantaged Commission, to be more cost-effective and are not a risk to the public health, safety, or welfare unless otherwise prohibited by law.* However, in areas where transportation suited to the unique needs of a transportation disadvantaged person cannot be purchased, the service may be provided directly by the appropriate agency.

(2) *Each state agency, whether or not it is a member of the Transportation Disadvantaged Commission, shall inform the commission in writing, before the beginning of each fiscal year, of the specific amount of any money the agency allocated for transportation disadvantaged services.*

Section 129. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, line 2, through page 12, line 4, strike all of said lines and insert: An act relating to transportation; amending s. 341.302, F.S.; providing for development of a rail system plan; providing for inclusion of certain elements of the plan; amending s. 341.3025, F.S.; prescribing rulemaking authority of entities that own or operate certain public rail systems; amending s. 341.303, F.S.; providing for funding of rail systems; amending s. 343.54, F.S.; requiring plans for expansion of service of the Tri-County Commuter Rail Authority to be consistent with local comprehensive plans; amending s. 343.64, F.S.; prescribing powers of the Central Florida Commuter Rail Authority with respect to feeder transit services and purchase of insurance; requiring the authority to adopt a plan of development; amending s. 343.73, F.S.; providing for membership of the governing board of the Tampa Bay Commuter Rail Authority; amending s. 343.74, F.S.; providing the authority with power to purchase insurance; amending s. 20.23, F.S.; deleting the requirement that the Florida Transportation Commission review the budget of the Center for Urban Transportation Research; providing criteria for the Department of Transportation to apply in determining whether to contract with local governmental or private entities for work to be performed; amending s. 110.205, F.S.; revising the titles of two department employees who are exempt from career service; amending s. 119.07, F.S., relating to confidentiality of records; conforming a cross-reference; amending s. 206.46, F.S.; providing for the transfer of certain funds from the State Transportation Trust Fund into the Right-of-Way Acquisition and Bridge Construction Trust Fund; amending s. 212.69, F.S., relating to distribution of the proceeds of the tax on motor and special fuels; revising and conforming cross-references; amending s. 215.605, F.S.; providing for the transfer of excess funds from the Right-of-Way Acquisition and Bridge Construction Trust Fund to the State Transportation Trust Fund; amending s. 287.055, F.S.; authorizing the acquisition of services of a certified real estate appraiser or a

right-of-way acquisition agent through negotiation; improving clarity; providing an exception; creating s. 331.21, F.S.; providing a term of office for the presiding officer of an airport authority; providing criteria; amending s. 334.30, F.S., relating to private transportation facilities; deleting the requirement that each facility be approved by the Legislature through the adoption of a separate bill for each; prohibiting the department from requiring the reduction of tolls and fares which are pledged as collateral for the financing of a facility; authorizing the department to allocate federal funds to a facility subject to certain conditions; amending s. 335.18, F.S.; amending a cross-reference to conform to the repeal of s. 335.189, F.S., by this act; amending s. 335.181, F.S.; providing legislative findings, policy, and purpose relating to the regulation of access to the State Highway System; amending s. 335.182, F.S.; deleting the authority for local governments to adopt access standards which exceed state standards; providing definitions; amending s. 335.1825, F.S.; providing requirements regarding the construction or alteration of an access connection and the costs for such alterations; amending s. 335.183, F.S.; deleting the requirement that the department assess a fee of at least \$25 for each permit application; amending s. 335.184, F.S.; requiring that an access permit be filed in the appropriate department district; providing criteria under which a permit may be denied; providing remedies for such denial; amending s. 335.185, F.S.; deleting the authority for the department to require joint use of access; authorizing the department to extend the duration of a permit; amending s. 335.187, F.S.; providing requirements relating to unpermitted access connections and the issuance of nonconforming permits; amending s. 335.188, F.S.; providing criteria for the adoption of an access management system by the department; providing notice requirements; repealing s. 335.189, F.S., relating to the delegation of the department's permitting authority; amending s. 335.20, F.S., the Local Government Transportation Assistance Act; prescribing priority for funding projects; deleting obsolete provisions; authorizing the department to fund up to 50 percent of the cost of certain local government projects; amending s. 337.25, F.S.; authorizing the department to exchange functionally equivalent property; improving clarity; authorizing the department to use a staff appraiser to appraise certain surplus property; amending s. 337.26, F.S.; authorizing the chief administrative officer of the Office of the Florida Turnpike to execute instruments of sale, lease, or conveyance of property; amending s. 337.27, F.S.; authorizing the chief administrative officer of the Office of the Florida Turnpike to execute eminent domain resolutions; amending s. 337.273, F.S., pertaining to transportation corridors; deleting a required map of reservation; clarifying the estimated-dates-of-construction requirement; amending s. 337.276, F.S.; clarifying that advanced acquisition of right-of-way does not prohibit advancement of construction phases; expanding the projects eligible to receive right-of-way acquisition bond proceeds; requiring that the use of bond proceeds for those projects be specifically identified in the tentative work program; amending s. 337.407, F.S.; allowing a municipality or county to authorize the installation, without public bid, of bus benches and shelters and advertising contained thereon within the right-of-way limits of municipal or county roads; authorizing the continued use of transit bus benches already in existence which do not meet departmental size requirements; amending s. 338.251, F.S.; providing a limitation on the advancement of funds from the Toll Facilities Revolving Trust Fund; providing for annual compounding of interest on advances made from such funds; authorizing retroactive application of interest in certain cases; providing that interest may not be charged on advances made for projects that are assumed by the Office of the Florida Turnpike; providing a repayment schedule for advances made for such projects; amending s. 339.08, F.S.; prohibiting the department from funding the administrative expenses of commuter rail authorities that do not provide rail service; deleting obsolete provisions; amending s. 339.135, F.S.; defining the term "district work program" to include the work program of the Office of the Florida Turnpike; changing the deadline for the submittal of the tentative work program; changing procedures regarding the development of the work program; deleting an unnecessary prohibition against including unlawful projects in the tentative work program or allocating funds to them; revising requirements for the list of projects that could begin construction if funding becomes available; correcting a cross-reference; authorizing inter-district loans that meet certain requirements; revising amendment procedures for the adopted work program; amending ss. 334.045, 334.046, 339.12, 339.136, F.S., to conform; amending s. 339.155, F.S., pertaining to transportation planning; creating the Metropolitan Planning Organization Advisory Council in place of a committee; revising procedures and notice for public hearings on transportation systems planning, facility and site selection, and design selection; amending s. 339.175, F.S., pertaining to metropolitan planning organizations; deleting an obsolete deadline; specifying the powers and duties of

the Metropolitan Planning Organization Advisory Council; amending s. 341.031, F.S.; revising definitions pertaining to public transit; amending s. 341.051, F.S.; deleting an obsolete requirement relating to investment policy; revising state funding limitations for federally assisted public transit capital projects; improving clarity; amending s. 341.052, F.S.; revising public transit block grant procedures; providing for minimum funding; amending s. 348.0004, F.S.; prohibiting the project of an expressway authority under certain conditions; requiring the Department of Transportation to institute an annual permitting system for motor vehicles using the Bryant Grady Patton Bridge in Franklin County; repealing s. 337.241, F.S., which relates to maps of reservation; creating s. 337.108, F.S.; providing definitions; providing for indemnification of certain contractors that discover or encounter hazardous materials or pollutants while performing services for the Department of Transportation; amending s. 337.175, F.S.; authorizing contractors to substitute securities, certificates of deposit, or irrevocable letters of credit in lieu of retainage in contracts with the Department of Transportation; prohibiting the department from expending funds on the North Broward General Aviation Airport; providing for the use of funds programmed for such airport; amending s. 337.185, F.S.; providing for arbitration by the State Arbitration Board, at the contractor's option, for certain contracts with the department; eliminating a restriction on consecutive terms on the board; providing a fee; amending s. 337.221, F.S.; providing for a claims settlement process; amending s. 212.69, F.S.; providing for the transfer of funds each year from the State Transportation Trust Fund to the Board of Regents to fund the Urban Transportation Center; amending s. 334.065, F.S.; requiring that certain projects undertaken by the center be approved by its advisory board; providing that the Secretary of the Department of Transportation and a member of the Florida Transportation Commission be members of the board; deleting a provision relating to the budget of the center; authorizing the Orlando-Orange County Expressway Authority to construct the Northwest Beltway Part A; authorizing the authority to construct certain improvements and facilities incidental to the expressway system; amending s. 338.001, F.S.; providing procedures for the modification of the Florida Intrastate Highway System Plan; amending s. 338.223, F.S.; providing that certain moneys allocated to proposed turnpike projects from the State Transportation Trust Fund need not be repaid to the trust fund, treated as costs of such projects, or considered when determining the economic feasibility of such projects; amending s. 338.2275, F.S.; updating the approved maximum costs of specified turnpike projects; redefining the Branan Field/Chaffee Road Facility and the Northwest Expressway; approving additional projects; increasing the maximum amount of bonds that may be issued to fund approved projects; creating s. 341.3201, F.S.; naming the Florida High-Speed Rail Transportation Act; amending s. 341.321, F.S., relating to the findings and purpose of high-speed rail development; revising cross-references; deleting references to the former Florida High-Speed Rail Transportation Commission; amending s. 341.322, F.S.; revising, adding, and deleting definitions relating to high-speed rail transportation; amending s. 341.325, F.S.; revising cross-references; conforming terminology; assigning the powers and duties of the former commission to the Department of Transportation; requiring a written analysis of the agency reports on a certification application; amending s. 341.327, F.S., relating to need for a high-speed rail transportation system; revising cross-references; conforming terminology; amending s. 341.329, F.S., relating to bonds and project financing; requiring that bonds be issued in accordance with federal and state laws and regulations; revising cross-references; conforming terminology; providing an exception to the financing of bonds from revenues of the high-speed rail transportation system; changing the information required on the face of the bonds; deleting provisions relating to bond sale requirements; amending s. 341.331, F.S., relating to the designation of service areas and transit station locations; authorizing a method for a franchisee to propose changes in transit stations; amending s. 341.332, F.S., relating to franchises; deleting a provision that requires adherence to the State Minimum Building Code; revising cross-references; deleting a provision that requires a list of permits and licenses necessary for ancillary facilities; requiring a franchisee to coordinate its facilities and services with existing operations; authorizing a franchisee under certain circumstances to perform certain activities relating to the high-speed rail transportation system; providing a method for a franchisee to convey property to another person during the term of the franchise, with certain restrictions; requiring the department to include certain provisions in the franchise to protect the continued operation of the franchise; revising cross-references; conforming terminology; creating s. 341.3331, F.S., relating to requests for proposals; specifying that a public meeting be followed by the issuance of a request for proposals; creating s. 341.3332, F.S., relating to notice of issuance of the requests



for proposals; requiring that certain notice be given; creating s. 341.3333, F.S., relating to the application for franchise; requiring that the application correspond to the request for proposals; providing an exemption from the public records law until the opening of the applications; prohibiting the acceptance of an application without the appropriate fee; requiring filing of copies; prohibiting amendments to applications before the award is made; creating s. 341.3334, F.S., relating to the franchise review process; providing criteria to the Department of Transportation for assessing applications; providing for comments by affected agencies; requiring a public meeting on the applications; requiring a notice of proposed agency action; creating s. 341.3335, F.S.; requiring interagency coordination of the franchise application review; creating s. 341.3336, F.S.; requiring a public meeting on the franchise application; creating s. 341.3337, F.S., relating to determination and award of franchise; requiring the department to provide notice of the proposed agency selection of a franchisee; providing for administrative proceedings; providing an exception; providing for the award or for rejection of all applications; creating s. 341.3338, F.S.; providing the effect of the grant of the franchise; creating s. 341.3339, F.S.; authorizing post-franchise agreements; amending s. 341.334, F.S.; providing for the powers and duties of the department; revising cross-references; deleting references to the commission, its records, and its expenses; amending s. 341.335, F.S.; revising the powers and duties relating to ss. 341.3201-341.386, F.S., of the Governor and Cabinet sitting as the Florida Land and Water Adjudicatory Commission; amending s. 342.336, F.S.; revising the powers and duties relating to ss. 341.3201-341.386, F.S., of the Department of Environmental Regulation and the Department of Community Affairs; revising cross-references; conforming terminology; creating s. 341.3365, F.S., relating to the certification procedure; requiring the Department of Transportation to adopt a rule for the processing of certification applications; repealing s. 341.338, F.S., relating to submission of requests for proposals to the former commission; repealing s. 341.339, F.S., relating to notice of issuance of requests for proposals by the former commission; amending s. 341.342, F.S., relating to agreements concerning contents of certification application and supporting documentation; allowing, rather than requiring, a rule to establish a procedure for the department to enter agreements regarding the certification application; amending s. 341.343, F.S., relating to review of application; revising the responsibilities of the agencies; providing for a request for additional information; deleting a reference to the Franchise and Environmental Review Committee; deleting a reference to the commission; providing for a certification hearing; deleting the review of applications for sufficiency; providing for amendments to certification applications; providing for review of amendments; amending s. 341.344, F.S.; abolishing the Franchise and Environmental Review Committee and creating the Citizens' Planning and Environmental Advisory Committee; correcting and revising cross-references; conforming terminology; providing for admissibility of the report of the committee in a certification proceeding or administrative hearing; amending s. 341.345, F.S., relating to alternate corridors or transit station locations; prescribing a new time limit; revising cross-references; providing for amendments to the application to accept a proposed alternative; revising cross-references; amending s. 341.346, F.S., relating to appointment of hearing officers; revising cross-references; requiring one hearing officer, rather than a panel, to conduct a hearing; deleting a reference to alteration of time limitations; creating s. 341.3465, F.S.; providing for alteration of time limitations; amending s. 341.347, F.S., relating to local government hearings; changing the deadline for local hearings; providing for the payment of the cost of notices and transcripts by the franchisee; amending s. 341.348, F.S.; revising the provisions relating to reports and studies; revising cross-references; changing the deadlines; providing for additional copies of reports; requiring the department to analyze the agency reports on certification applications; specifying the content of the analysis; amending s. 341.351, F.S., relating to publication of notice of certification application and proceedings; changing the time limitations; revising cross-references; deleting adoption of a certain rule; amending s. 341.352, F.S., relating to certification hearings; changing the time limitation; conforming terminology; amending s. 341.353, F.S.; revising provisions relating to final disposition of certification applications, rather than certification components; clarifying provisions; providing that the terms and conditions of the certification order become terms and conditions of the franchise; providing a reasonable time period for modification of an agreement; repealing ss. 341.355, 341.358, 341.361, F.S., relating to the assessment and award of the franchise component by the former commission; amending s. 341.363, F.S.; revising cross-references; replacing the term "franchise" with the term "certification"; changing the time limitations and requirements for certification; clarifying existing provisions; amending s. 341.364, F.S., relating to appeals of development orders to the Governor and Cabinet;

adding the right to appeal for inconsistency with terms and conditions of the certification; creating s. 341.365, F.S., relating to associated development and development rights; authorizing a franchisee to undertake certain associated development; amending s. 341.366, F.S., relating to recording of notice of certified corridor route; revising cross-references; requiring the department to file a notice of the award of certification; clarifying current provisions; amending s. 341.368, F.S.; providing for modification of certification or franchise; revising cross-references; providing for changing or adding to the terms and conditions in certification; deleting references to ancillary facilities; providing that terms and conditions of a final order of the Governor and Cabinet are added to the terms and conditions of certification; amending s. 341.369, F.S., relating to fees; revising cross-references; requiring a certification application fee, rather than a certification component fee; deleting an annual franchise fee; amending s. 341.371, F.S.; providing for revocation or suspension of franchise or certification; revising cross-references; amending s. 341.372, F.S., relating to administrative fines; revising cross-references; clarifying current provisions; amending s. 341.375, F.S., relating to participation by certain individuals; revising cross-references; conforming terminology; amending s. 341.381, F.S.; providing for applicability; revising cross-references; amending s. 341.382, F.S., relating to superseding laws and regulations; revising cross-references; amending s. 341.383, F.S., relating to assessing of fees by local governments; revising cross-references; conforming terminology; repealing s. 341.385, F.S., relating to prohibition against certain development orders; amending s. 341.386, F.S., relating to admissibility of award of franchise and certification in eminent domain proceedings; adding references to award of a certification; amending s. 20.17, F.S.; directing the Department of Commerce to develop a comprehensive trade data resource and research center; providing for contracting with the center; amending ss. 288.012, 288.025, 288.03, F.S.; authorizing the Department of Commerce to establish and operate offices in specific foreign countries for the gathering of trade data information on trade opportunities in those countries, to assist exporters of goods and services to locate and subscribe to trade data information and research, and to assist entities contracting with the department in the gathering, storing, promoting, packaging, and selling of trade data; amending s. 341.053, F.S.; specifying the types of projects that may be funded under the department's Intermodal Development Program; deleting a requirement relating to the department's review of funding requests from rail authorities; deleting the requirement that a certain level of intermodal funding be distributed to the transportation districts pursuant to the statutory formula for new construction; providing a limitation on the amount of funds which may be distributed to any single entity or project in a given fiscal year; deleting a requirement regarding the prioritization of projects eligible for funding under the program; amending s. 73.091, F.S.; clarifying a cross-reference; amending s. 73.092, F.S.; providing for the determination of attorney's fees and costs of litigation in eminent domain proceedings; amending s. 337.271, F.S.; deleting notice requirements relating to the acquisition of property through negotiation; deleting requirements relating to the submission of appraisals and business damage claims by a property owner; providing applicability; amending s. 287.042, F.S.; authorizing private nonprofit community transportation coordinators, while conducting commission business, to purchase operational supplies at state contract rates; amending s. 427.011, F.S.; amending the definition of the term "transportation disadvantaged"; defining the term "nonsponsored transportation disadvantaged services"; amending s. 427.012, F.S.; increasing the membership of the Transportation Disadvantaged Commission; amending s. 427.013, F.S.; providing for the development of needs-based criteria for the distribution of funds for nonsponsored transportation disadvantaged services; providing for the review of rates charged by proposed alternate transportation operators; providing for a cost-comparison study of community transportation coordinators; amending s. 427.0155, F.S.; increasing the duties of community transportation coordinators; amending s. 427.0157, F.S.; increasing the powers and duties of coordinating boards; amending s. 427.0159, F.S.; providing for distribution criteria for funds for nonsponsored transportation disadvantaged services; amending s. 427.016, F.S.; authorizing the use of alternate transportation operators in certain circumstances; requiring each state agency to inform the commission in writing of the amount of funds the agency has allocated for transportation disadvantaged services; providing an effective date.

Senators Walker and Childers offered the following amendments to **Amendment 1** which were moved by Senator Walker and adopted:

**Amendment 1A**—On page 213, between lines 20 and 21, insert:



Section 129. There is hereby appropriated \$6,500,000 from the State Transportation Trust Fund to the Department of Transportation for the purpose of funding track, signal, and other necessary improvements over existing railroad owned by CSXT in order to implement Rail Passenger Service (AMTRAK) between New Orleans, Louisiana and Jacksonville.

(Renumber subsequent section.)

**Amendment 1B**—In title, on page 231, line 27, after the semicolon (;) insert: providing an appropriation from the State Transportation Trust Fund to the Department of Transportation for specified rail passenger service;

**Amendment 1** as amended was adopted.

On motion by Senator Forman, by two-thirds vote **CS for HB 2439** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

**CS for SM 8**—A memorial to the Congress of the United States, urging Congress to abandon deficit financing and to adopt balanced budget financing of the national budget.

WHEREAS, the federal deficit has reached an all-time historical high and continues to rise, and

WHEREAS, the Congress has continued to pass an annual budget deficit, thereby increasing the national debt, and

WHEREAS, the budget deficit ceiling continually is raised by only a voice vote which forces no responsibility on members of Congress, and

WHEREAS, the first step of a legitimate debt reduction plan is to eliminate deficit spending, and

WHEREAS, the United States cannot continue as a world leader when it leads the world as the nation with the highest debt, and

WHEREAS, the financing of the deficit continues to increase and is now the largest single budget item, and

WHEREAS, deficit financing strangles the nation's money supply and impedes the economic development of Americans wishing to participate in the free enterprise system, and

WHEREAS, cities, counties, and states can no longer accommodate the increasing needs of a growing population without greater revenues while at the same time the Federal Government shifts the burden to local government, and

WHEREAS, we cannot allow the dangerously high level of control of the economy of this country which citizens of foreign countries are garnering, NOW, THEREFORE,

*Be It Resolved by the Legislature of the State of Florida:*

That the Congress of the United States is requested to take action to:

(1) Adopt, prior to each fiscal year, a statement of receipts and outlays for such year in which total proposed outlays are no greater than total expected receipts. The Congress may amend such statement, provided that revised proposed outlays are no greater than revised expected receipts. Whenever three-fifths of the total membership of each House of Congress deems it necessary, Congress may provide in such statement for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in the statement.

(2) Restrict increases in total receipts for any fiscal year, as set forth in the statement, by a rate that is no greater than the rate of increase in the national income for the calendar year ending before such fiscal year, unless a majority of the total membership of both Houses of Congress pass legislation directed solely to approving specific increases in receipts and such legislation becomes law.

(3) Include in total receipts all receipts of the United States, except those derived from borrowing, and include in total outlays all outlays of the United States except those for repayment of debt principal.

(4) Provide for waiving these restrictions for any fiscal year in which a declaration of war is in effect.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

—was read the second time in full. On motion by Senator Johnson, **CS for SM 8** was adopted and certified to the House. The vote on adoption was:

Yeas—34      Nays—None

**SJR 2066**—A joint resolution proposing an amendment to Section 5 of Article VII of the State Constitution, relating to estate taxes.

—was read the second time by title. On motion by Senator Jenne, by two-thirds vote **SJR 2066** was read the third time by title and failed to receive the required constitutional three-fifths vote of the membership. The vote was:

Yeas—15      Nays—17

**CS for SB 378**—A bill to be entitled An act relating to commercial relations; repealing ss. 673.101-673.805, F.S., and creating ss. 673.1011-673.6051, F.S.; revising the law of negotiable instruments (Article 3 of the Uniform Commercial Code—Commercial Paper) in order to modernize, reorganize, and clarify the law with respect thereto; amending ss. 671.201, 671.207, F.S., pertaining to general definitions under the Uniform Commercial Code and to performance or acceptance under reservation of rights, to conform them to revisions made by this act; amending ss. 672.103, 672.511, F.S., pertaining to definitions applicable to the sales provisions of the code, to conform cross-references to revisions made by this act; amending ss. 674.101-674.105, 674.201-674.207, 674.301-674.504, F.S.; transferring, renumbering, and amending ss. 674.106-674.108, 674.208-674.214, F.S.; creating ss. 674.1061, 674.1101, 674.111, 674.2081, 674.2091, F.S.; and repealing s. 674.109, F.S., all pertaining to bank deposits and collections (Article 4 of the Uniform Commercial Code); revising these provisions of the code to the revisions made in the negotiable instruments law and to otherwise improve the clarity of these provisions; amending ss. 675.103, 675.114, F.S., pertaining to definitions applicable to provisions of the code providing for letters of credit, to conform cross-references to revisions made by this act; amending ss. 679.105, 679.203, 679.206, 679.302, 679.309, 679.312, F.S., to conform cross-references in provisions of the code pertaining to secured transactions to revisions made by this act; amending s. 90.953, F.S., pertaining to admissibility of duplicates into evidence, to conform a cross-reference to a revision made by this act; amending ss. 560.135, 560.201, F.S., pertaining to the sale of money orders, to conform cross-references to revisions made by this act; amending s. 658.12, F.S., pertaining to banks and trust companies, to conform a cross-reference to this revision; amending s. 832.05, F.S., pertaining to worthless checks, drafts, or debit card orders, to conform a cross-reference to a revision made by this act; providing an effective date.

—was read the second time by title. On motion by Senator Yancey, by two-thirds vote **CS for SB 378** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33      Nays—None

**CS for SR 286**—A resolution to exclude certain Florida agricultural products from the proposed North American Free Trade Agreement.

WHEREAS, the health of our nation's people depends upon the availability of a safe and economical food supply as recognized in the 1990 Farm Bill, and

WHEREAS, Florida, because of its geographical location and climate, produces more than 50 percent of our nation's supply of winter fruits and vegetables, and

WHEREAS, over 500,000 acres of winter fruits and vegetables, 700,000 acres of citrus, and 35,000 acres of ornamental horticultural plants are grown in Florida, and

WHEREAS, Florida is the sole domestic producer of many fruits and vegetables in the nation's marketplace during the winter months, and

WHEREAS, it is essential to our nation's security that we not become dependent on a foreign supply of essential foods in the American diet, and

WHEREAS, Florida producers receive no land subsidies and are in fact, facing increasing land tenure costs, and

WHEREAS, Florida's public policy with respect to agricultural production, as found in section 604.001, Florida Statutes, states "it is important to the health and welfare of the people of this state and to the economy of the state that additional problems are not created for growers and ranchers engaged in the Florida agricultural industry by laws and regulations that cause, or tend to cause, agricultural production to become inefficient or unprofitable," and

WHEREAS, this state recognizes the increasing importance of fostering international trade as a means for economic development and maintaining global competitiveness, and the significant role that agricultural trade plays in the overall trade balance, and

WHEREAS, proposed expansion of free trade agreements to include other southern hemispheric countries including Chile, Venezuela, Brazil, Colombia, and Argentina necessitates appropriate trade agreement formulation as a standard for these future negotiations as well as for current negotiations with Mexico and Canada, and

WHEREAS, many foreign countries do not have laws and enforcement capabilities to ensure food safety and compliance with phytosanitary and environmental regulations, and

WHEREAS, differences in wage requirements, farm worker safety, environmental regulation, workers' compensation, and governmental land subsidies give foreign growers an advantage over Florida growers, NOW, THEREFORE,

*Be It Resolved by the Senate of the State of Florida:*

That the Florida Senate urges the President of the United States to direct United States trade negotiators to ensure an equitable Free Trade Agreement in which the Government of Mexico agrees to enact laws and regulations which will equalize regulatory requirements so that the public health and safety of U.S. citizens who may consume the agricultural products of Mexico is assured, and so that a healthy, competitive domestic regional and world market for each nation's agricultural products is guaranteed. In the absence of such treaty provisions, U.S. negotiators should be directed to take steps to assure the physical safety of its citizens and the financial safety of U.S. agriculture.

BE IT FURTHER RESOLVED that the Florida Senate hereby urges the President of the United States to direct United States trade negotiators to exclude Florida's fresh fruits and vegetables, citrus and citrus juice products, tropical crops, and ornamental horticultural products from the proposed North American Free Trade Agreement.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be dispatched to the President of the United States, to the Office of the United States Trade Representative, and to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida Delegation to the United States Congress.

—was read the second time in full. On motion by Senator Dantzler, **CS for SR 286** was adopted. The vote on adoption was:

Yeas—36      Nays—None

**SB 80**—A bill to be entitled An act relating to the infant hearing impairment program; amending s. 383.144, F.S.; deleting all references to pilot sites and pilot programs for infants with hearing impairments; repealing s. 383.144(8), F.S., relating to the Council for the Infant Hearing Impairment Program; providing an effective date.

—was read the second time by title.

One amendment was adopted and one amendment failed to **SB 80** to conform the bill to **HB 455**.

Pending further consideration of **SB 80** as amended, on motions by Senator Weinstock, by two-thirds vote **HB 455** was withdrawn from the Committees on Health and Rehabilitative Services; and Appropriations.

On motions by Senator Weinstock, by two-thirds vote—

**HB 455**—A bill to be entitled An act relating to the infant hearing impairment program; amending s. 383.144, F.S.; deleting references to pilot sites and pilot programs for infants with hearing impairments; eliminating the Council for the Infant Hearing Impairment Program; providing an effective date.

—a companion measure, was substituted for **SB 80** and by two-thirds vote read the second time by title. On motion by Senator Weinstock, by two-thirds vote **HB 455** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

On motions by Senator Weinstock, by two-thirds vote **HB 881** was withdrawn from the Committees on Health and Rehabilitative Services; and Appropriations.

On motion by Senator Weinstock—

**HB 881**—A bill to be entitled An act relating to the Emergency Medical Services Advisory Council; amending s. 401.245, F.S.; specifying duties of the council; authorizing district representation on the council; extending council member terms of office from 3 years to 4 years; adding representatives of the Department of Highway Safety and Motor Vehicles and the Department of Transportation as ex officio members of the council; clarifying reporting requirements; saving s. 401.245, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

—a companion measure, was substituted for **SB 82** and read the second time by title. On motion by Senator Weinstock, by two-thirds vote **HB 881** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39      Nays—None

**CS for SB 582**—A bill to be entitled An act relating to civil liability; providing a definition; limiting civil liability for certain farmers who gratuitously allow certain persons to enter upon their land to remove crops remaining in the fields following harvesting; providing an exception; amending s. 768.73, F.S.; revising provisions relating to civil actions based upon negligence, strict liability, commercial transaction misconduct, professional liability, or breach of warranty in which punitive damages are awarded for willful, wanton, or gross misconduct; revising the distribution of punitive damages awards; requiring the clerk of the court to transmit a copy of the jury verdict to the State Treasurer; requiring the court to include the percentages of the award in the final judgment; requiring the payment of a percentage of certain settlement agreements to the state; requiring the Department of Banking and Finance to collect and deposit payments due the state; providing for future repeal and review of s. 768.73(2), (3), (4), (5), (6), and (7), F.S.; providing effective dates.

—was read the second time by title. On motion by Senator Yancey, by two-thirds vote **CS for SB 582** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39      Nays—None

**SB 1008**—A bill to be entitled An act relating to the Center for Urban Transportation Research; amending s. 212.69, F.S.; providing for the transfer of funds each year from the State Transportation Trust Fund to the Board of Regents to fund the center; amending s. 334.065, F.S.; requiring that certain projects undertaken by the center be approved by its advisory board; providing that the Secretary of the Department of Transportation and a member of the Florida Transportation Commission be members of the board; deleting a provision relating to the budget of the center; providing an effective date.

—was read the second time by title.

The Committee on Transportation recommended the following amendment which was moved by Senator Forman and adopted:

**Amendment 1 (with Title Amendment)**—On page 3, between lines 19 and 20, insert:

Section 3. Paragraph (b) of subsection (2) of section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(2)

(b) The commission shall have the primary functions to:

1. Recommend major transportation policies for the Governor's approval, and assure that approved policies and any revisions thereto are properly executed.

2. Periodically review the status of the state transportation system and recommend improvements therein to the Governor and the Legislature.

3. Perform an in-depth evaluation of the annual department budget request, the Florida Transportation Plan, and the tentative work program for compliance with all applicable laws and established departmental policies. Except as specifically provided in s. 339.135(4)(c)2., (d), and (f), the commission may not consider individual construction projects, but shall consider methods of accomplishing the goals of the department in the most effective, efficient, and businesslike manner.

4. Review all construction, design, and maintenance standards which may have been issued by the department and cause to have issued only those standards which can be shown to be cost-effective, consistent with any federal regulations or other prevailing state law which may apply.

5. Monitor the financial status of the department on a regular basis to assure that the department is managing revenue and bond proceeds responsibly and in accordance with law and established policy.

6. Monitor on at least a quarterly basis, the efficiency, productivity, and management of the department, using performance and production standards developed by the commission.

7. Perform an in-depth evaluation of the factors causing disruption of project schedules in the adopted work program and recommend to the Legislature and the Governor methods to eliminate or reduce the disruptive effects of these factors.

8. Review all employee positions in the department and provide to the Legislature by January 1, 1991, recommendations as to those positions in the department that should be exempt from the Career Service System.

~~9. Review the Center for Urban Transportation Research budget, provide an opportunity for the department to comment on the budget, and recommend a budget which shall not be subject to change by the department, but which shall be submitted to the Governor along with the budget of the department.~~

9.10. Perform an in-depth evaluation of the allocation of funds to the department districts and to the various counties within each district for the time period covering the adopted work program and the tentative work program. A report on such evaluation, including any recommendations regarding statutory changes, shall be submitted to the Legislature and the Governor no later than April 15, 1991.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 14, after the semicolon (;) insert: amending s. 20.23, F.S., to delete the requirement that the Florida Transportation Commission review the budget of the center;

Senator Forman moved the following amendment which was adopted:

**Amendment 2**—On page 1, line 19, strike “Subsections” and insert: Effective July 1, 1993, subsections

Senators Childers and Walker offered the following amendments which were moved by Senator Childers and adopted:

**Amendment 3**—On page 3, between lines 19 and 20, insert:

Section 3. There is hereby appropriated \$6,500,000 from the State Transportation Trust Fund to the Department of Transportation for the purpose of funding track, signal, and other necessary improvements over existing railroad owned by CSXT in order to implement rail passenger service (AMTRAK) between New Orleans, Louisiana, and Jacksonville.

(Renumber subsequent section.)

**Amendment 4**—In title, on page 1, line 14, after the semicolon (;) insert: providing an appropriation from the State Transportation Trust Fund to the Department of Transportation for specified rail passenger service;

On motion by Senator Forman, by two-thirds vote **SB 1008** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38      Nays—None

**SB 1278**—A bill to be entitled An act relating to landlord and tenant; amending s. 83.59, F.S.; providing that the attorney or agent of a landlord may file a complaint in an action for possession; providing an effective date.

—was read the second time by title.

Senator Kurth moved the following amendment which was adopted:

**Amendment 1 (with Title Amendment)**—On page 1, line 10, strike everything after the enacting clause and insert:

Section 1. Subsection (2) of section 83.59, Florida Statutes, is amended to read:

83.59 Right of action for possession.—

(2) A landlord, *his attorney, or his agent*, applying for the removal of a tenant shall file in the county court of the county where the premises are situated a complaint describing the dwelling unit and stating the facts that authorize its recovery. *A landlord's agent is not permitted to take any action other than the initial filing of the complaint, unless the landlord's agent is an attorney.* The landlord is entitled to the summary procedure provided in s. 51.011 [F. S. 1971], and the court shall advance the cause on the calendar.

Section 2. Subsection (5) of section 83.803, Florida Statutes, is amended to read:

83.803 Definitions.—As used in ss. 83.801-83.809:

(5) “Last known address” means that address provided by the tenant in the latest rental agreement or the address provided by the tenant by hand delivery or *certified registered* mail in a subsequent written notice of a change of address.

Section 3. Subsections (1) and (8) of section 83.806, Florida Statutes, are amended to read:

83.806 Enforcement of lien.—An owner's lien as provided in s. 83.805 may be satisfied as follows:

(1) The tenant shall be notified by written notice delivered in person or by *certified registered* mail to his last known address and conspicuously posted at the self-service storage facility.

(8) In the event of a sale under this section, the owner may satisfy his lien from the proceeds of the sale, provided the owner's lien has priority over all other liens in the personal property. The lien rights of secured lienholders are automatically transferred to the remaining proceeds of the sale. The balance, if any, shall be held by the owner for delivery on demand to the tenant. A notice of any balance shall be delivered by the owner to the tenant in person or by *certified registered* mail to the last known address of the tenant. If the tenant does not claim the balance of the proceeds within 2 years of the date of sale, the proceeds shall be deemed abandoned, and the owner shall have no further obligation with regard to the payment of the balance. In the event that the owner's lien does not have priority over all other liens, the sale proceeds shall be held for the benefit of the holders of those liens having priority. A notice of the amount of the sale proceeds shall be delivered by the owner to the tenant or secured lienholders in person or by *certified registered* mail to their last known addresses. If the tenant or the secured lienholders do not claim the sale proceeds within 2 years of the date of sale, the proceeds shall be deemed abandoned, and the owner shall have no further obligation with regard to the payment of the proceeds.

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to landlord and tenant; amending s. 83.59, F.S.; providing that the attorney or agent of a landlord may apply for the removal of a tenant; providing limitation on action taken by an agent; amending s. 83.803, F.S.; redefining the term “last known address”; amending s. 83.806, F.S.; providing for delivery of specified notice by certified mail with respect to enforcement of certain liens; providing an effective date.

On motion by Senator Kurth, by two-thirds vote **SB 1278** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37      Nays—None

**HB 2269**—A bill to be entitled An act relating to notaries public; amending s. 117.05, F.S.; providing prohibitions against specified notariations; providing a qualification; providing a form; amending s. 117.107, F.S.; prohibiting notaries from administering an oath to certain persons; providing an effective date.

—was read the second time by title.

Senator Dudley moved the following amendments which were adopted:

**Amendment 1 (with Title Amendment)**—On page 1, line 12, insert:

Section 1. Section 117.03, Florida Statutes, is amended to read:

117.03 Administration of oaths.—A notary public may administer an oath and make a certificate thereof when it is necessary for the execution of any writing or document to be attested, protested, or published under the seal of a notary public. The notary public may not take an acknowledgment of execution in lieu of an oath if an oath is required. *Except for the self-proof of a will executed in accordance with s. 732.503*, a notary public shall certify in his certificate of acknowledgment or jurat exactly what type of identification upon which the notary public is relying ~~and whether or not an oath is taken~~.

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 117.03, F.S., relating to the administration of oaths; providing an exception for self-proved wills;

**Amendment 2 (with Title Amendment)**—On page 1, line 12, insert:

Section 1. Subsection (2) of section 117.01, Florida Statutes, is amended to read:

117.01 Appointment, application, suspension, revocation, application fee, bond, and oath.—

(2) The application for appointment shall be signed and sworn to by the applicant, shall be accompanied by a fee of \$25, *together with a surcharge of \$4, which \$4 is appropriated to the Executive Office of the Governor to be used to educate and assist notaries public.* ~~and~~ The oath of office and notary bond required by this section *shall also accompany the application*; and shall be in a form prescribed by the Department of State which shall require, but not be limited to, the following information: full name, residence address and telephone number, business address and telephone number, date of birth, race, sex, social security number, citizenship status, driver's license number or the number of other official state-issued identification, affidavit of good character from someone unrelated to the applicant who has known the applicant for 1 year or more, a list of all professional licenses and commissions issued by the state during the previous 10 years and a statement as to whether or not the applicant has had such license or commission revoked or suspended, and a statement as to whether or not the applicant has been convicted of a felony, and, if there has been a conviction, a statement of the nature of the felony and restoration of civil rights. The applicant may not use a fictitious or assumed name other than a nickname on an application for commission. The application shall be maintained by the Department of State for the full term of a notary commission. A notary public shall notify, in writing, the Department of State of any change in his business address, home telephone number, business telephone number, home address, or criminal record within 60 days after such change. The Governor may require any other information he deems necessary for determining whether an applicant is eligible for a notary public commission. Each applicant must swear on the application that the information on the application is true and correct to the best of his knowledge.

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 117.01, F.S.; imposing a surcharge to educate and assist notaries public;

On motion by Senator Dudley, by two-thirds vote **HB 2269** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34      Nays—None

Consideration of **SB 1374** was deferred.

On motions by Senator Souto, by two-thirds vote **CS for CS for HB 839** was withdrawn from the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations.

On motions by Senator Souto, by two-thirds vote—

**CS for CS for HB 839**—A bill to be entitled An act relating to agricultural fertilizers; amending s. 576.011, F.S.; revising definitions; amending s. 576.021, F.S.; requiring annual licensing of fertilizer distributors and annual registration of specialty fertilizer distributors by the Department of Agriculture and Consumer Services; providing fees; providing application contents; amending s. 576.031, F.S.; providing labeling requirements for fertilizer and specialty fertilizer; amending s. 576.041, F.S.; revising provisions relating to inspection fees, records, and required bond; increasing inspection fees; providing for use of such fees; providing a penalty for nonpayment of tonnage fee; increasing inspection fee penalty; revising bonding requirements; amending s. 576.051, F.S., relating to inspection, sampling, and analysis; authorizing court orders for regulatory inspection by the department; providing for the use of fertilizer analysis reports rather than certificates of analysis; amending s. 576.055, F.S., relating to deconing, to conform; amending s. 576.061, F.S.; relating to plant nutrient tolerances and deficiencies; increasing penalties; conforming terminology; providing for use of proceeds from payment of penalties; amending s. 576.085, F.S.; providing that the department shall establish plant nutrient content by rule; creating s. 576.087, F.S.; requiring the use of antisiphon devices for specified irrigation systems; amending s. 576.091, F.S.; changing the composition of the Fertilizer Technical Council; deleting provisions relative to official action by the council and per diem; amending s. 576.101, F.S.; providing for cancellation, revocation, and suspension of license; providing for probationary status; amending s. 576.111, F.S., relating to stop-sale, stop-use, removal, and hold orders, to conform; amending s. 576.122, F.S., relating to seizure, condemnation, and sale; amending s. 576.132, F.S., relating to recovery of damages; amending s. 576.141, F.S., relating to sales or exchanges between manufacturers or licensees; amending s. 576.151, F.S.; authorizing the use of specified fertilizer materials under certain conditions; amending ss. 576.181 and 576.191, F.S., relating to administration, rules, procedure, and enforcement of ch. 567, F.S.; providing for review and repeal of ch. 567, F.S.; amending s. 575.01, F.S.; clarifying definitions relating to certification of seed; amending s. 575.07, F.S.; providing for penalties and administrative fines; amending s. 578.011, F.S.; revising definitions under the Florida Seed Law; amending s. 578.08, F.S.; revising seed registration requirements; revising registration fee schedule; amending s. 578.11, F.S.; authorizing the department to analyze seed samples as requested by a consumer; providing for fees; reenacting s. 578.14, F.S., relating to packet vegetable and flower seed, to incorporate the amendment to s. 578.08, F.S., in a reference thereto; amending s. 578.26, F.S.; increasing the fee for filing a complaint; providing for recovery of costs; amending s. 578.28, F.S., relating to seed in hermetically sealed containers; providing that the moisture of specified packaged agricultural or vegetable seed shall be established by rule of the department; amending s. 580.031, F.S.; clarifying definitions relating to commercial feed and feedstuffs; amending s. 580.061, F.S., relating to inspection fees, payment, enforcement, reporting, and bond; providing a penalty; amending s. 580.091, F.S., relating to commercial feed inspection, sampling, and analysis; providing for payment of analysis fees; amending s. 580.131, F.S.; revising commercial feed tolerance rates, violations, and penalties; creating s. 580.132, F.S.; establishing commercial value for commercial feed; amending s. 580.151, F.S.; providing for an additional member of the Commercial Feed Technical Council; repealing s. 575.08, F.S., relating to the enforcement of ch. 575, F.S., the "Florida Certification Seed Law"; making an appropriation from the General Inspection Trust Fund; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1520** and by two-thirds vote read the second time by title.

Senator Souto moved the following amendment:

**Amendment 1 (with Title Amendment)**—Strike everything after the enacting clause and insert:

Section 1. Section 576.011, Florida Statutes, is amended to read:

576.011 Definitions.—When used in this chapter, *the term*:

(1) ~~The term~~ "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of ~~commercial~~ fertilizer.

(2) The term "Brand" means a term, design, or trademark used in connection with one or several grades of commercial fertilizer.

(3) The term "Bulk fertilizer" means commercial fertilizer in a non-packaged form.

(4) The term "commercial fertilizer" means any substance containing one or more recognized plant nutrients which is designed for use or claimed to have value in promoting plant growth or which is designed for use or claimed to have value in controlling soil acidity or alkalinity (except unmanipulated animal and vegetable manures).

(4)(5) The term "Coning" means the formation of a pyramidal pile or cone of dry bulk mixed fertilizer such as may occur while being loaded into a holding hopper or transport vehicle and cause separation and segregation of the fertilizer components.

(5)(6) The term "Dealer" means any person, other than the manufacturer, who offers for sale, sells, barter, or otherwise supplies commercial fertilizer.

(6)(7) The term "Deconing" means any accepted process employed by a licensee manufacturer that will prevent or minimize coning.

(7)(8) The term "Deficiency" means the amount of nutrient found by analysis to be less than that guaranteed, which may result from lack of nutrient ingredients or from lack of uniformity.

(8)(9) The term "Department" means the Department of Agriculture and Consumer Services or its authorized representatives.

(9)(10) The term "Excess" means the amount found by analysis to be over and above that guaranteed on the label.

(10) "Fertilizer" means any substance which:

(a) Contains one or more recognized plant nutrients and promotes plant growth, or

(b) Controls soil acidity or alkalinity, or

(c) Provides other soil enrichment, or

(d) Provides other corrective measures to the soil.

For the purposes of this chapter, the term "fertilizer" does not include unmanipulated animal or vegetable manures, peat, or compost which make no claims as described in paragraphs (a)-(d).

(11) The term "Fertilizer-pesticide mixture" means a commercial fertilizer containing a pesticide.

(12) The term "Grade" means the percentages in mixed fertilizer of total nitrogen expressed as N, available phosphorus expressed as P<sub>2</sub>O<sub>5</sub>, and soluble potassium expressed as K<sub>2</sub>O, (N), available phosphoric acid (P<sub>2</sub>O<sub>5</sub>), and the soluble potash (K<sub>2</sub>O), stated in whole numbers in that the same terms, order, and percentages as in the "guaranteed analysis" form. Mixed fertilizer containing a total of 5 percent or less of total nitrogen (N), available phosphoric acid (P<sub>2</sub>O<sub>5</sub>), and soluble potash (K<sub>2</sub>O) may be guaranteed in other than whole percentages; however, a minimum guarantee shall be established by rule.

(13) "Guaranteed analysis" means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

(a) "Primary plant nutrients." The term "guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

1. Total Nitrogen .....	percent
2. Nitrate Nitrogen .....	percent
3. Ammoniacal Nitrogen .....	percent
4. Water Soluble Organic Nitrogen (and/or Urea Nitrogen) .	percent
5. Water Insoluble Nitrogen.....	percent
6. Available Phosphoric Acid (P <sub>2</sub> O <sub>5</sub> ) .....	percent
7. Soluble Potash (K <sub>2</sub> O).....	percent

When urea is present it may be guaranteed as urea nitrogen or as water-soluble organic nitrogen at the option of the registrant. When urea formaldehyde is present, not more than 40 percent of the total nitrogen from this source may be claimed as urea nitrogen or water-soluble organic nitrogen.

(b) "Secondary plant nutrients." When a secondary plant nutrient is guaranteed, claimed, or advertised, the guarantee shall be expressed as the element (excluding liming materials and gypsum). Sulphur is to be specified as either "free" or "combined." Magnesium shall be guaranteed as to both total magnesium and water-soluble magnesium. When other secondary plant nutrients are guaranteed, claimed, or advertised, the guarantees shall be expressed as established by rule of the department. Minimum guarantees authorized for specialty fertilizer shall be established by rule of the department.

(c) "Other plant nutrient materials when sold as such."—

1. Unacidulated mineral phosphatic materials, basic slag, bone meal, and other phosphatic materials shall be guaranteed as to both total and available phosphoric acid, and, in addition thereto, unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to degree of fineness.

2. Limestone and dolomite shall be guaranteed as to moisture and the degree of fineness and calcium carbonate, and, in addition thereto, dolomite shall be guaranteed as to magnesium carbonate.

3. Gypsum shall be guaranteed as to calcium sulphate content.

(d) "Authorized pesticides." The name, the percentage by weight, and the pounds of active ingredients per ton of all authorized pesticides added shall be guaranteed.

(e) "Chlorine." Chlorine shall be guaranteed as to maximum percentage content, when applicable, in commercial fertilizer.

(14) The term "Label" means a display of written, printed, or graphic matter upon the immediate container of any commercial fertilizer or accompanying any fertilizer same when moved in bulk.

(15) The term "Labeling" means all labels and other written, printed, or graphic matters upon an article or any of its containers or wrappers, or accompanying such article.

(16) "Licensee" means a person who guarantees a fertilizer and receives a license to distribute fertilizer under the provisions of this chapter.

(17)(16) The term "Manufacturer" means a person engaged in the business of importing, preparing, mixing, blending, or manufacturing commercial fertilizer for sale, either direct to consumers or by or through other media of distribution, and the word "manufacture" means preparation, mixing, blending, or manufacturing for the purpose of distribution.

(18)(17) "Misbranded."—means that one or more label requirements have not been fulfilled. A commercial fertilizer is deemed to be misbranded:

(a) If its labeling is false or misleading in any particular. If a commercial fertilizer is alleged to be misbranded because the labeling is false or misleading, there shall be taken into account the extent to which the labeling fails to prominently and conspicuously reveal facts relative to the proportions or absence of certain ingredients or other facts concerning ingredients which are of material interest to consumers.

(b) If it is sold, offered for sale, or distributed under the name of another fertilizer.

(c) If it is not labeled as required by law or rules prescribed under this chapter.

(d) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(e) If any constituent in whole or in part has been omitted.

(f) If its contents fail to meet the guaranteed analysis as expressed on the labeling under which it is sold, in excess of authorized tolerances.

(g) If it contains any poisonous, deleterious, or nonnutritive ingredient in sufficient amount to render it injurious to plants when used in accordance with directions for use on the label or, if there are no directions given, when used in a generally acceptable manner.

(h) If any unauthorized substance has been substituted.

(19)(18) ~~The term "Mixed fertilizer" means a fertilizer containing any combination or mixtures of commercial fertilizers designed for use or claimed to have value in promoting plant growth.~~

(20) *"Natural organic fertilizer" means a material derived from either plant or animal products containing one or more elements (other than carbon, hydrogen, and oxygen) which are essential for plant growth.*

(21) *"Nitrogen breakdown" means the classification of forms of nitrogen guaranteed in percent by weight, the sum of which equals the total nitrogen guarantee.*

(22) *"Official check sample" means a sealed and identified sample taken from the official sample for use in check analysis.*

(23)(19) ~~The term "Official sample" means any sample of commercial fertilizer taken by the department or its representative, in accordance with the provisions of this law or rules adopted hereunder, and designated as "official" by the department.~~

(24)(20) ~~The term "Organic fertilizer" means a material containing carbon and one or more elements, other than hydrogen and oxygen, essential for plant growth. This term includes both "natural organic fertilizer" and "synthetic organic fertilizer." When the term "organic" is utilized in the label, labeling, or advertisement of any commercial fertilizer, it shall be qualified as either "synthetic organic" or "natural organic," with the percentage of each specified. This shall not apply to the guaranteed analysis as defined in this chapter. When the term "organic" is used, it must be clearly indicated that it refers only to the nitrogen or other applicable portion of the fertilizer.~~

(a) ~~"Natural organic" is a byproduct from processing of animal or vegetable substances that contain sufficient plant nutrients to be of value as fertilizers.~~

(b) ~~"Synthetic organic" is a material that is manufactured chemically (by synthesis) from its elements or other chemicals, as contrasted to those found readymade in nature.~~

(25)(21) ~~The term "Percent" or "percentage" means the percentage by weight.~~

(22) ~~The term "person" includes an individual, a partnership, an association, a firm, and a corporation.~~

(26)(23) ~~The term "Primary plant nutrient" means total the nitrogen expressed as N, available phosphorus expressed as P2O5, and soluble potassium expressed as K2O, or any form of nitrogen, phosphoric acid, or potash, or any combination of these substances.~~

(27)(24) ~~The term "Registrant" means the person who registers specialty commercial fertilizer under the provisions of this chapter.~~

(28)(25) ~~The term "Secondary plant nutrient" and "micro plant nutrient" mean those nutrients other than the primary plant nutrients that are essential for the normal growth of plants and have been added to the fertilizer means any element or substance useful as plant nutrient other than the primary plant nutrients hereinabove defined.~~

(29)(26) ~~The term "Slow or controlled release fertilizer" means a fertilizer containing a plant nutrient in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant significantly longer than a reference "rapidly available nutrient fertilizer," such as ammonium nitrate or urea, ammonium phosphate, or potassium chloride. Such delay of initial availability or extended time of continued availability may occur by a variety of mechanisms. When slow or controlled release nutrient is claimed or advertised, the guarantee for such a nutrient shall be shown as a footnote and shall be expressed as percent of actual nutrient. When a slowly released nutrient is less than 15 percent of the guarantee for either total nitrogen (N), available phosphoric acid (P<sub>2</sub>O<sub>5</sub>), or soluble potash (K<sub>2</sub>O), as appropriate, the label shall bear no reference to such designations.~~

(30)(27) ~~The term "Specialty fertilizer" means any fertilizer packaged, marketed, and distributed for home and garden use and packaged in containers or bags such that the net weight is 49 pounds or less commercial fertilizer in packages sold or offered for sale for home use.~~

(31) *"Synthetic organic fertilizer" means a material that is manufactured chemically (by synthesis) from its elements or other chemicals.*

(32)(28) ~~The term "Tolerance" means the variation permitted authorized by law or rule regulation from the guaranteed analysis.~~

(33)(29) ~~The term "Ton" means a net weight of 2,000 pounds avoirdupois.~~

(34)(30) ~~The term "Unit of plant nutrient" means 1 percent by weight or 20 pounds per ton.~~

(35)(31) ~~The term "Water-insoluble nitrogen" means nitrogen not soluble in water and shall be so classified. All organic nitrogen soluble in water shall be classified as "water-soluble organic nitrogen." However, soluble organic nitrogen derived from urea may be classified either as "urea nitrogen" or "water-soluble organic nitrogen," at the option of the registrant. Nitrogen in the form of nitrate nitrogen shall be classified as "nitrate nitrogen." nitrogen in the form of "ammoniacal nitrogen" shall be so classified.~~

(36) *"Water-soluble organic nitrogen" means all organic nitrogen soluble in water.*

(32) ~~Words importing the singular number may extend and be applied to several persons or things, and words importing the plural number may include the singular.~~

Section 2. Section 576.021, Florida Statutes, is amended to read:

576.021 Registration and licensing.—

(1) *A person whose name appears upon a label and who guarantees a fertilizer may not distribute that fertilizer to a nonlicensee until a license to distribute has been obtained by that person from the department upon payment of a \$100 fee. All licenses shall expire on June 30 each year. An Each commercial fertilizer shall be registered before being offered for sale or sold in this state. Upon approval by the department, a copy of the registration and a registration number series shall be furnished to the applicant. The application for license shall include the following information:*

(a) *The name and address of the applicant The net weight, or the word "bulk" if intended for sale only in nonpackaged form.*

(b) *The name and address of the distribution point. The name and address shown on the license shall be shown on all labels, pertinent invoices, and storage facilities for fertilizer distributed by the licensee in this state The brand.*

(c) ~~The guaranteed analysis.~~

(d) ~~The name and street address of the registrant.~~

(e) ~~The sources from which the nitrogen, phosphorus, and potassium are derived.~~

(f) ~~The sources of secondary plant nutrients if guaranteed, claimed, or advertised.~~

(2)(a) *A person may not distribute a specialty fertilizer in this state until it is registered with the department by the licensee whose name appears on the label. An application for registration of each grade of specialty fertilizer shall be made on a form furnished by the department and shall be accompanied by an annual fee of \$100 each for the first five registrations for each grade of each brand. If more than five grades of specialty fertilizer are to be registered by a licensee, the registration fee for the sixth grade registered and for each subsequent grade registered shall be \$25 for each grade of each brand. All specialty fertilizer registrations expire June 30 each year. All licensing and registration fees paid to the department under this section shall be deposited into the State Treasury to be placed in the General Inspection Trust Fund to be used for the sole purpose of funding the fertilizer inspection program.*

(b) *Labels for each brand and product grade shall accompany the application and shall include the following information:*

1. *The brand and grade.*

2. *The guaranteed analysis.*

3. *The name and street address of the licensee.*

4. *The net weight.*

5. *The sources from which the nitrogen, phosphorus, and potassium are derived.*



6. ~~The sources of secondary plant nutrients and micro plant nutrients if guaranteed, claimed, or advertised. No one shall be required to register any brand of commercial fertilizer which is already registered under this chapter by another person, provided the commercial fertilizer is in the original and unbroken container.~~

(3) ~~Upon approval by the department, a copy of each registration and a registration number series shall be furnished to the applicant. Any change in or deviation from the information filed with the department upon registration of commercial fertilizer shall require a separate registration. The addition of secondary plant nutrients or authorized pesticides to a registered mixed fertilizer shall not require separate registration as long as such additions do not in any way change or qualify other requirements of the registration previously made. However, this exemption from separate registration shall not apply to specialty fertilizer.~~

(4) ~~Registration may be handled by telegraph or telephone prior to delivery of the commercial fertilizer.~~

Section 3. Section 576.031, Florida Statutes, is amended to read:

#### 576.031 Labeling.—

(1) Any commercial fertilizer distributed in this state in containers shall have placed on or affixed to the immediate and outside container, if there be one, a label setting forth in clearly legible and conspicuous form the following information: required in s. 576.021(1)(b)-(f), and the net weight.

- (a) The brand and grade.
- (b) The guaranteed analysis.
- (c) The name and street address of the licensee.
- (d) The net weight.
- (e) The sources from which the nitrogen, phosphorus, and potassium are derived.
- (f) The sources of secondary plant nutrients and micro plant nutrients if guaranteed, claimed, or advertised.

(2) If distributed in bulk, five labels containing the information required in paragraphs (1)(a)-(f) s. 576.021(1)(b)-(f), shall accompany delivery and be supplied to the purchaser at time of delivery with the delivery ticket which shall show the certified net weight.

(3) Each label of specialty fertilizer shall bear the Florida specialty fertilizer registration number. Each label of all other fertilizer shall bear the Florida license number, provided the department may relieve a registrant of this requirement if the registrant has less than five registrations on file with the department.

(4) The form of the label shall be as prescribed by rule technical regulations.

Section 4. Section 576.041, Florida Statutes, is amended to read:

#### 576.041 Inspection fees; records; bond.—

(1) Every licensee registrant shall pay to the department an inspection fee in the amount of 75 50 cents per ton for commercial fertilizer sold in the state, except raw ground phosphate rock, soft phosphate, colloidal phosphate, phosphatic clays and all other untreated phosphatic materials, gypsum, hydrated lime, limestone, and dolomite when sold or used for agricultural purposes, on which the inspection fee shall be 30 20 cents per ton. However, there shall be paid by each registrant inspection fees in the amount of not less than \$50 annually for commercial fertilizer, except raw ground phosphate rock, soft phosphate, colloidal phosphate, phosphatic clays and all other untreated phosphatic materials, gypsum, hydrated lime, limestone, and dolomite when sold or used for agricultural purposes, on which the inspection fees shall be not less than \$25 annually. All fees paid to the department under this section, as herein provided, shall be deposited paid by it into the State Treasury to be placed in the General Inspection Trust Fund to be used for the sole purpose of funding the fertilizer inspection program.

(2) Before the distribution registration of a commercial fertilizer, each licensee the manufacturer or dealer shall make application upon a form provided by the department to the department for a permit to report monthly the tonnage of commercial fertilizer sold in the state and make payment of the inspection fee therefor. The continuance issuance of a license permit is conditioned upon the applicant's:

(a) Maintaining records and a bookkeeping system that will accurately indicate the tonnage of commercial fertilizer sold by the licensee; and

(b) registrant and Consent to examination of the business his records and books by the department or its representative for a verification of the correctness of tonnage reports and inspection fees. Tonnage reports of sales and payment of inspection fee shall be made monthly on forms furnished by the department and submitted on or before the fifteenth day of the month succeeding the month covered by the reports.

(3) In addition to any other penalty provided by this chapter, any licensee who fails to timely pay the tonnage fee shall be assessed a penalty of 1.5 percent for each month or part of a month that the fee or portion of the fee is not paid.

(4) If the report is not filed and the inspection fee paid on the date due or if the report of tonnage is false, the amount of inspection fee due is subject to a penalty of 10 percent or \$25 \$10, whichever is greater. The Such penalty shall may be added to the inspection fee due and constitutes a debt and becomes a claim and lien against the surety bond or certificate of deposit which is required by this chapter as hereinafter provided.

(5) Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for revocation of the license permit and also for cancellation of all registrations on file for the licensee registrant.

(6)(3) In order to guarantee faithful performance of the provisions of subsection (2), the applicant for license permit shall post with the department a surety bond, or assign a certificate of deposit, in an amount required by rule of the department to cover fees for any reporting period. The amount shall not be less than \$1,000. The surety bond shall be executed by a corporate surety company authorized to do business in this state. The certificate of deposit shall be issued by any recognized financial institution doing business in the United States. The department shall establish, by rule, whether an annual or continuous surety bond or certificate of deposit will be required and shall approve each surety bond or certificate of deposit before acceptance. furnish to the department a surety bond in the amount of \$1,000, executed by some corporate surety company authorized to do business in Florida. The department shall examine and approve as to sufficiency all such bonds and certificates of deposit before acceptance. When the licensee registrant ceases operation, said bond or certificate of deposit shall be returned, provided there are no outstanding fees due and payable.

(7)(4) In order to obtain information that will facilitate the collection of inspection fees and serve other useful purposes relating to fertilizer, the department may, by rule, require licensees, manufacturers, registrants, and dealers to report movements of commercial fertilizer.

Section 5. Section 576.051, Florida Statutes, is amended to read:

#### 576.051 Inspection, sampling, analysis.—

(1) Agents of The department is are authorized to enter upon any public or private premise or carrier during regular business hours in the performance of its their duties relating to commercial fertilizers and fertilizer business records pertaining to same. In the event that entry into the public or private premise or carrier is refused, an authorized department representative may apply for, obtain, and execute an inspection warrant in accordance with the procedures of chapter 933. An inspection warrant may be issued for all matters pertaining to fertilizer business records, notwithstanding any provisions to the contrary in ss. 933.20-933.30.

(2) The department, or its agent, is authorized and directed to sample, test, inspect, and make analyses of commercial fertilizer sold or offered for sale within this state within the provisions of this law and rules adopted hereunder, at a time and place and to such an extent as it may deem necessary to determine whether such commercial fertilizers are in compliance with the provision of this law.

(3) The official analysis shall be made from the official sample. The department or its authorized agent, before making the official analysis, shall take a sufficient portion from the official sample for check analysis and shall place that portion the same in a bottle sealed and identified by number, date, and the preparer's initials of the person preparing it. The A sealed and identified sample, herein called "official check sample," shall be kept until the analysis of on the official sample is completed.

However, the ~~licensee registrant~~ may obtain upon request a portion of the official ~~check~~ sample. Upon completion of the analysis of the official sample, a true copy of the ~~fertilizer analysis report certificate of analysis~~ shall be mailed to the ~~licensee registrant~~ of the ~~commercial~~ fertilizer from whom the official sample was taken and also to the dealer or agent, if any, and purchaser, if known. This ~~fertilizer analysis report certificate of analysis~~ shall show all determinations of plant nutrient and pesticides ~~that are claimed or guaranteed as specified in s. 576.011(13)~~. If the official analysis conforms with the provisions of this law, the official check sample may be destroyed. If the official analysis does not conform with the provisions of this law, the official check sample shall be retained for a period of 90 days from the date of the ~~fertilizer analysis report certificate of analysis~~ of the official sample, ~~and~~ If within that time the ~~licensee manufacturer~~ of the ~~commercial~~ fertilizer from whom the official sample was taken, upon receipt of the ~~fertilizer analysis report certificate~~, makes written demand for analysis of the ~~this~~ official check sample by a referee chemist, a portion of the official check sample sufficient for analysis shall be sent to a referee chemist who is mutually acceptable to the department and the ~~licensee registrant~~ for analysis at the expense of the ~~licensee registrant~~. The referee chemist, upon completion of the ~~his~~ analysis, shall forward to the department and to the ~~licensee manufacturer~~ a ~~fertilizer analysis report certificate of analysis~~ bearing a proper identification mark or number; and the ~~fertilizer analysis report such certificate of analysis~~ shall be verified by an affidavit of the person or laboratory making the analysis. If the ~~fertilizer analysis report certificate of analysis~~ checks within three-tenths of 1 actual percent with the ~~department's state chemist's~~ analysis on each element for which analysis was made, the mean average of the two analyses shall be accepted as final and binding on all concerned. However, if the referee's ~~fertilizer analysis report certificate of analysis~~ shows a variation of greater than three-tenths of 1 actual percent from the ~~department's state chemist's~~ analysis in any one or more elements for which an analysis was made, upon demand of either the department or the ~~licensee registrant~~ from whom the official sample was taken, a portion of the official check sample sufficient for analysis shall be submitted to a second referee chemist who is mutually acceptable to the department and to the ~~licensee registrant~~ from whom the official sample was taken, at the expense of the party or parties requesting the referee analysis. If no demand is made for an analysis by a second referee chemist, the ~~department's fertilizer analysis report state chemist's certificate of analysis~~ shall be accepted as final and binding on all concerned. The second referee chemist, upon completion of the ~~his~~ analysis, shall make a ~~fertilizer analysis report certificate and report~~ as provided in this subsection for the first referee chemist. The mean average of the two analyses nearest in conformity to each other shall be accepted as final and binding on all concerned.

(4) The department, in determining for administrative purposes whether any ~~commercial~~ fertilizer is deficient, shall be guided solely by the official sample as defined in ~~s. 576.011(19)~~ and obtained and analyzed as provided for in this section ~~subsections (2) and (3)~~.

(5) ~~Fertilizer analysis reports~~ ~~Certificates of analysis~~ shall be admissible in any court or other legal proceeding procedure.

(6) If any error occurs in analyzing ~~commercial~~ fertilizer or in a ~~fertilizer analysis report, an amended fertilizer analysis reporting same, a corrected report~~ shall be immediately prepared and furnished to all parties who received the original report ~~the registrant and purchaser~~.

(7) The department shall, with the ~~recommendation approval~~ of the technical council, adopt rules governing the collection and analysis of official samples. In ~~adopting the promulgating~~ such rules, the department shall give due consideration to those tools, sampling patterns, methods, and terminology which at that time are recommended by ~~organizations such such organizations~~ as the Association of Official Analytical Chemists, and the Association of American Plant Food Control Officials, ~~and such other recognized authorities~~.

(8) The department shall respond uniformly and equitably to consumer requests for sampling, but not to the extent that such responses interfere with its capability to effectively regulate the overall fertilizer market. Limitations on the number of samples to be taken at the request of any one consumer shall be established by rule at a level commensurate with the consumer's volume of purchase and prior deficiency experiences. However, additional request samples beyond the maximum may be collected if the consumer pays a fee established by rule.

Section 6. Section 576.055, Florida Statutes, is amended to read:

576.055 Deconing.—The department may adopt, by rule, procedures and methods which would require each in-state manufacturer of ~~commercial~~ fertilizer to incorporate specified procedures designed to avoid coning during the loading of bulk mixed fertilizer into transport vehicles to reduce separation and segregation of fertilizer components intended for delivery to a purchaser.

Section 7. Section 576.061, Florida Statutes, is amended to read:

576.061 Plant nutrient tolerances, deficiencies, and penalties.—

(1) Tolerances shall be set by the department by ~~rule in technical rules and regulations~~.

(2) Deficiencies and penalties shall be as follows:

(a) When the commercial value of a mixed fertilizer ~~which has been~~ found to be deficient in primary plant nutrient equals or exceeds the amount guaranteed by the ~~licensee manufacturer~~, no penalty shall be assessed, provided no element of primary plant nutrient is deficient more than one-half of 1 percent when the guarantee does not exceed 10 percent or more than 1 percent when the guarantee exceeds 10 percent. If the commercial value found fails to equal or exceed that which is guaranteed, a penalty shall be assessed based on the deficiency found, but in no instance shall the penalty be less than \$10. No overage in any secondary plant nutrient or ~~micro plant nutrient~~ shall compensate for a deficiency in primary plant nutrient or of another secondary plant nutrient or ~~micro plant nutrient~~. When a deficiency is found in any plant nutrient, the buyer shall be entitled to collect an amount from the ~~licensee registrant~~ equal to 3 times the commercial value of the deficiency found. When a fertilizer-pesticide mixture is found to be deficient in pesticide, the consumer shall be entitled to collect from the ~~licensee registrant~~ an amount prescribed by rule of the department.

(b) If the ~~licensee plant producing a product~~ on which a penalty is assessed for a plant nutrient deficiency is on probationary status as provided in ~~this chapter s. 576.101(2)~~ and rules ~~adopted promulgated~~ thereunder, the ~~licensee registrant~~ shall pay to the department an additional amount equal to one-half the penalty assessed. The proceeds from any such penalty shall be deposited into the General Inspection Trust Fund to be used for the sole purpose of funding the fertilizer inspection program.

(3)(a) In tobacco brands of mixed ~~commercial~~ fertilizer, the penalty for an excess of chlorine of more than 25 percent of the guarantee shall be, ~~a penalty of~~ 100 percent of the commercial value of the ~~said~~ mixed fertilizer shall be assessed. No penalty shall be assessed for an excess of chlorine of less than 25 percent of the guarantee and in no case shall a penalty be assessed unless the chlorine present is 1 percent or more.

(b) In brands of ~~commercial~~ fertilizer other than tobacco brands, the penalty for excess in chlorine shall be one-eighth the penalties as set forth above for excess in tobacco brands.

(c) Within 60 days from the date of issuance of a ~~fertilizer analysis report certificate of analysis~~ from the ~~department state chemist~~ and the notice of penalties assessed under the provisions of this chapter, a ~~licensee registrant~~ shall make payment in full to the consumer, in cash, or by credit memo if and to the extent the consumer is indebted to the ~~licensee registrant~~ or dealer. Any ~~licensee registrant~~ who fails to make settlement in full to the consumer within the 60 days is liable for interest on the penalty of 1.5 percent per month from the date of issuance of the ~~fertilizer analysis report certificate of analysis~~. If a ~~licensee registrant~~ demands an analysis of the official check sample by a referee chemist as provided in ~~s. 576.051(3)~~, the 60-day settlement requirement established by ~~this paragraph~~ shall be temporarily suspended pending a final determination. When the final and binding analysis has been established as provided in ~~s. 576.051(3)~~, it shall be the responsibility of the department to determine the amount of penalty, if any, due to the consumer and to notify in writing the ~~licensee registrant~~ and the consumer of the final determination. The ~~licensee registrant~~ shall have 10 days from the date of receipt of the final determination from the department to make settlement with the consumer and shall notify the department in writing of the terms of the settlement.

(d) If any fertilizer is found to be of short weight by ~~an inspector of~~ the department, the ~~licensee registrant~~, within 30 days after receipt of notice of such short weight, shall make payment to ~~the consumer or~~ the department an amount of 3 times the commercial value of the shortage in each case, or by credit memo if and to the extent the consumer is

*indebted to the licensee or dealer, but in no instance shall the penalty be less than \$25. Any licensee who fails to make settlement in full to the consumer or the department within 60 days is liable for interest on the penalty of 1.5 percent per month from the date of issuance. The licensee shall notify the department in writing of the terms of the settlement. to the consumer. Such penalty shall be deposited to the credit of the General Inspection Trust Fund, from which there shall be paid to the consumer the amount of the penalty.*

(e) If the licensee ~~registrant~~, dealer, or agent fails or refuses to make such payment to the consumer within the time required, the consumer may institute legal proceedings against the licensee ~~such registrant~~, dealer, or agent for recovery of penalties as provided in this chapter. Any judgment against a licensee ~~registrant~~, dealer, or agent shall be double the amount of the penalty and shall include a reasonable attorney's fee and costs.

(f) When a deficiency is found in a sample drawn from a lot of fertilizer in the hands of a dealer or agency, the dealer or agency shall collect the amount due under the deficiency from the licensee ~~manufacturer~~ and shall within 60 days pay to each person purchasing fertilizer from such lot a his proportionate share of the amount collected and shall notify the department in writing that such payment has been made. However, as to any individual sale by a dealer or agent of ~~commercial~~ fertilizer subject to penalties for deficiencies when the ~~such~~ dealer or agent is unable to ~~ascertain or determine~~ the purchaser of the ~~such~~ lot of fertilizer, the dealer or agent shall pay the proportionate amount of penalties ~~on such~~ sale to the department to be placed in the State Treasury to the credit of the General Inspection Trust Fund ~~to be used for the sole purpose of funding the fertilizer inspection program.~~

(4) When it is determined by the department that a ~~commercial~~ fertilizer has been distributed without being ~~licensed or registered as provided in s. 576.021, or without labeling as required under s. 576.031,~~ the department ~~shall may~~ require the licensee ~~registrant~~ to pay a penalty in the amount of \$100 ~~\$25~~. The proceeds from any such penalty payments shall be deposited by the department in the General Inspection Trust Fund ~~to be used for the sole purpose of funding the fertilizer inspection program.~~

(5) The department may enter an order imposing one or more of the following penalties against any person who violates any of the provisions of this chapter or the rules ~~adopted promulgated~~ hereunder or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the department in the performance of its duty in connection with the provisions of this chapter:

(a) Issuance of a warning letter.

(b) Imposition of an administrative fine of not more than \$1,000 per occurrence after the issuance of a warning letter.

(c) *Cancellation, revocation, or suspension of any license registration issued by the department.*

Section 8. Section 576.085, Florida Statutes, is amended to read:

576.085 Minimum plant nutrient content.—*The department shall establish, by rule, a minimum plant nutrient content. No one shall register any mixed fertilizer of which the primary plant nutrient constitutes less than 16 percent. However, the department, upon request from any manufacturer, may issue a permit to said manufacturer permitting him to manufacture mixed fertilizer of less than 16 percent primary plant nutrient, provided the manufacturer has complied with all provisions of this chapter and all regulations pertaining to "low analysis" mixed fertilizer.*

Section 9. Section 576.087, Florida Statutes, is created to read:

576.087 Antisyphon requirements for irrigation systems.—

(1) Any irrigation system used for the application of fertilizer must be equipped with an antisyphon device adequate to protect against contamination of the water supply.

(2) It is unlawful for any person to apply fertilizer through an irrigation system which is not equipped with an antisyphon device as required by this section.

(3) The department shall establish specific requirements for antisyphon devices.

(4) Any governmental agency which requires antisyphon devices on irrigation systems used for the application of fertilizer shall use the specific antisyphon device requirements adopted by the department.

Section 10. Section 576.091, Florida Statutes, is amended to read:

576.091 Fertilizer Technical Council.—

(1) COMPOSITION.—The Fertilizer Technical Council is hereby created in the department of Agriculture and Consumer Services and shall be composed of 13 members as follows:

(a) Three representatives of the department; ~~of Agriculture and Consumer Services, a citizen at large who shall have no affiliation with the manufacture or distribution of fertilizer shall be appointed by the commissioner, and the dean for research and the dean for extension, Institute of Food and Agricultural Sciences, University of Florida, who shall be appointed by the Commissioner of Agriculture; and the beef cattle, field crops, citrus, vegetable, commercial fertilizer, commercial pesticide, and agricultural limestone members of the State Agricultural Advisory Council.~~

(b) If a vacancy occurs, it shall be filled for the remainder of the term in the same manner as an initial appointment.

(2) POWERS AND DUTIES.—The Fertilizer Technical Council shall have the powers and duties to:

(a) Consider and study the entire field of ~~commercial~~ fertilizer.

(b) Review and make recommendations to the department on any ~~commercial~~ fertilizer material ~~registration~~ submitted to it by the department.

(c) Advise and consult with the Commissioner of Agriculture and the directors of the divisions *responsible for conducting the fertilizer inspection program of Chemistry and Inspection*, at their request or upon its own initiative, regarding the ~~adoption promulgation~~, administration, and endorsement of all laws and; rules, and regulations relating to ~~commercial~~ fertilizer.

(d) Consider all matters submitted to it by the Commissioner of Agriculture, the division directors, or other members of the council.

(e) Submit proposed legislation and rules to the Commissioner of Agriculture.

(f) Suggest policies and practices for the administration of this chapter to the Commissioner of Agriculture and the division directors which they shall duly consider.

(3) MEETINGS; PROCEDURES; RECORDS.—The council shall meet at least annually and elect a chairman and a vice chairman for 1-year terms.

(a) The technical council shall meet at the call of the chairman, at the request of the department or of a majority of the council membership, or at such times as may be prescribed by its rules of procedure.

(b) A department representative, designated by the Commissioner of Agriculture, The State Chemist shall serve as secretary of the Fertilizer Technical Council.

(c) In conducting its meetings, the technical council shall use accepted rules of procedure. The secretary shall keep a complete record of the proceedings of each meeting, which record shall show the names of the members present at each meeting and the actions taken. Such records shall be kept on file with the secretary, and these records and other documents about matters within the jurisdiction of the technical council shall be subject to inspection by the members of the technical council.

~~(4) OFFICIAL ACTION.—A majority of the members shall constitute a quorum, and action by a majority of a quorum shall be official.~~

~~(5) PER DIEM.—Members of the Fertilizer Technical Council shall receive no compensation for their services, but shall be entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.~~

Section 11. Section 576.101, Florida Statutes, is amended to read:

576.101 Cancellation, revocation, and suspension of registration; probationary status.—

(1) The department may deny, *suspend*, or revoke any *license registration* issued by the department for any violation of the provisions of this chapter, ~~or the rules adopted promulgated thereunder, or any lawful order of the department.~~

(2) The department may place any *licensee fertilizer plant* on a probationary status when the deficiency levels of samples taken from that *licensee plant* do not meet minimum performance levels as established by rule *within the tolerances permitted by the rule.*

Section 12. Section 576.111, Florida Statutes, is amended to read:

576.111 Stop-sale, stop-use, removal, or hold orders.—

(1) When ~~commercial~~ fertilizer is being offered ~~or exposed~~ for sale in violation of any of the provisions of this chapter, the department, ~~through its authorized representative,~~ may issue and enforce a stop-sale, stop-use, removal, or hold order to the owner or custodian of the *said* fertilizer ordering it to be held at a designated place until *compliance has been met and the law has been complied with* and *said* fertilizer is released in writing by the department ~~or its authorized representative~~ or the *said* violation has been the subject ~~disposed of~~ of a *by* court order.

(2) Such written or printed notice is notice and warning to all persons, including, but not limited to, the owner or custodian thereof or his agents or employees, to scrupulously refrain from moving, bothering, altering, or interfering with *the said* fertilizer or from altering, defacing, or in anywise interfering with *the such* notice itself or permitting the same to be done.

(3) It shall be unlawful for any person to willfully violate any of the provisions of subsection (2) of this section.

(4) The department ~~or its authorized representative~~ shall release the ~~commercial~~ fertilizer so withdrawn when the provisions of this law have been complied with.

(5) ~~The Such~~ owner or custodian, with the ~~consent and~~ authorization, *direction, and supervision* of the department, may relabel *the said* fertilizer so that the label will conform to the product, or transfer and return *the said* product to the *licensee manufacturer* or supplier thereof for the purpose of bringing the product in compliance with the law; ~~provided, that such relabeling or return to the manufacturer or supplier shall be under the direction and supervision of the department or its authorized representative.~~

Section 13. Section 576.122, Florida Statutes, is amended to read:

576.122 Seizure, condemnation, and sale.—Any lot of ~~commercial~~ fertilizer not in compliance with the provisions of this law shall be subject to seizure on complaint of the department to the circuit court in the county in which *the said* fertilizer is located. In the event the court finds *the said* fertilizer to be in violation of this law and orders it condemned, it shall be disposed of as the court may direct; provided, that in no instance shall the disposition of *the said commercial* fertilizer be ordered by the court without first giving the owner or custodian an opportunity to apply to the court for release of *the said* fertilizer or for permission to process or relabel it to bring it into compliance with this chapter.

Section 14. Section 576.132, Florida Statutes, is amended to read:

576.132 Recovery of damages.—

(1) The department may file for penalties due for deficiencies in a court of competent jurisdiction upon 10 days' notice after the 60 days' payment period.

(2) When penalties are due and unpaid by a nonresident *licensee registrant*, dealer, or agent, the department may proceed by attachment as provided by law. In the case of nonresident and absconding debtors, *the department may proceed* against any ~~such commercial~~ fertilizer, credits of the *licensee such registrant*, dealer, or agent wherever ~~same may be~~ found within the limits of this state.

(3) When ~~commercial~~ fertilizer in lots of one or more tons is delivered in the same car, boat or other form of transport and consigned to more than one purchaser, analysis of one sample ~~representing any one registered commercial fertilizer~~ shall be considered representative of all the fertilizer of that registration and shall entitle each purchaser to the remedies provided by this chapter.

(4) *All fertilizer analysis reports* ~~Any certificate of analysis required or provided by this chapter,~~ when properly verified, shall be competent evidence in any court of law or equity in this state.

Section 15. Section 576.141, Florida Statutes, is amended to read:

576.141 Sales or exchanges between manufacturers or licensees.—Nothing in this chapter shall be construed to apply to sales or exchanges of ~~commercial~~ fertilizers between importers, manufacturers, or *licensees registrants*.

Section 16. Section 576.151, Florida Statutes, is amended to read:

576.151 Prohibited acts.—The following acts, ~~or the causing thereof, knowingly,~~ are prohibited:

(1) The dissemination of any false advertisement or advertising matter with reference to the distribution or sale of ~~commercial~~ fertilizer.

(2) The refusal to permit entry or inspection or the taking of samples, ~~as authorized by s. 576.051.~~

(3) The removal or disposal of a detained or "stop-sale" lot of ~~commercial~~ fertilizer or the stop-sale order ~~pursuant to s. 576.111.~~

(4) The detaching, altering, defacing or destruction, in whole or in part, of any label or labeling provided for in this law or rules adopted hereunder.

(5) The placing or causing to be placed on labels any false advertisement or misleading statement.

(6) The misbranding of ~~commercial~~ fertilizer.

(7) The forging, counterfeiting, simulating, falsely representing, or improper use of any label authorized or required by s. 576.031, or any rule or regulation.

(8) The sale of unprocessed leather, hair, wool waste, or any other organic material as a ~~commercial~~ fertilizer or as an ingredient of any mixed fertilizer showing an activity of water-insoluble nitrogen less than prescribed by the Association of Official Analytical Chemists, *however, fertilizer materials not defined by Association of American Plant Food Control officials may be used as fertilizer materials, provided the licensee furnishes an acceptable definition, Association of Official Analytical Chemists analysis or other appropriate method of analysis, and agronomic data from a recognized school of agriculture whose test results have been subjected to peer review and published in a generally available scientific journal.*

(9) The failure or refusal to do or perform any affirmative provision or the doing or performing of any prohibited provision of this chapter or of any rule ~~adopted or regulation promulgated~~ pursuant to this chapter ~~not expressly covered in this section.~~

Section 17. Section 576.181, Florida Statutes, is amended to read:

576.181 Administration; rules; procedure.—

(1) This chapter and all rules ~~and regulations~~ adopted ~~and promulgated~~ hereunder shall be administered and enforced by the department.

(2) The department is authorized, by rule, to implement, make specific, and interpret the provisions of this chapter, and specifically to determine the composition and uses of ~~commercial~~ fertilizer as defined in this chapter, including, without limiting the foregoing general terms, the taking and handling of samples, the establishment of tolerances, deficiencies, and penalties where not specifically provided for in this chapter; to prohibit the sale or use in fertilizer of any material proven to be detrimental to agriculture, *public health, or the environment*, or of questionable value; to provide for the incorporation into ~~commercial~~ fertilizer of such other substances as pesticides and proper labeling of such mixture; and to prescribe the information which shall appear on the label other than specifically set forth in this chapter.

Section 18. Section 576.191, Florida Statutes, is amended to read:

576.191 Enforcing official.—This chapter shall be administered by the department of ~~Agriculture and Consumer Services.~~

Section 19. Sections 576.011, 576.021, 576.031, 576.041, 576.051, 576.055, 576.061, 576.071, 576.085, 576.087, 576.091, 576.101, 576.111, 576.122, 576.132, 576.141, 576.151, 576.161, 576.171, 576.181, and 576.191, Florida Statutes, are repealed October 1, 1997, and shall be reviewed by the Legislature before that date.

Section 20. Section 575.01, Florida Statutes, is amended to read:

575.01 Definitions.—As used in this chapter, *the term*:

(1)(5) ~~The term "Agricultural seed" includes shall include~~ the seeds of grass, forage, cereal and fiber crops, and any other seed or seed mixture commonly recognized within the state as agricultural or field seed.

(2)(4) ~~The term "Breeder seed" means shall mean~~ seed that are released directly from the person or breeder of experiment station that who developed the such seed. These seed are one class above foundation seed.

(3)(2) ~~The terms "Certified seed" and "registered seed" mean shall mean~~ seed that have been produced and labeled in accordance with the procedures procedure and in compliance with the rules adopted and regulations under this chapter.

(4)(1) ~~The term "Department" means shall mean~~ the Department of Agriculture and Consumer Services or its authorized representative.

(5)(3) ~~The term "Foundation seed" means shall mean~~ seed that have been produced and labeled in accordance with the procedures and in compliance with the rules and regulations of any agency authorized by the laws of this state or the laws of another state. Foundation seed in Florida will be under the control of the Florida Foundation Seed Producers Association, Inc.

(6)(7) ~~The term "Grower" means shall mean~~ any person resident of the state engaged in the business of farming or growing seed.

(7)(6) ~~The term "Vegetable seed" includes shall include~~ the seeds of those crops which are grown in gardens or on truck farms, and are generally known and sold under the name of vegetable seed in this state.

Section 21. Section 575.07, Florida Statutes, is amended to read:

575.07 Penalties; administrative fine Penalty.—

(1) *The department may enter an order imposing one or more of the following penalties against any person who violates any provision of, or any rule adopted under, this chapter, or who otherwise prevents or attempts to prevent the department from performing its duties under this chapter:*

(a) *Issuance of a warning letter.*

(b) *Imposition of an administrative fine not to exceed \$1,000 per violation per day after the issuance of a warning letter.*

(c) *Revocation or suspension of the registration as a seed dealer or grower certification, or both.*

(2) *Any person who violates any provision of this chapter commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any person, copartnership, association or corporation, and any officer, agent, servant or employee thereof, violating any of the provisions of this chapter or any of the rules and regulations promulgated hereunder, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083.*

Section 22. Section 578.011, Florida Statutes, is amended to read:

578.011 Definitions; Florida Seed Law.—When used in this chapter, *the term*:

(1) ~~The term "person" shall include a partnership, corporation, company, society, association, or agency.~~

(1)(18) ~~The term "Advertisement" means~~ all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this law.

(2)(3) ~~The term "Agricultural seed" includes shall include~~ the seed of grass, forage, cereal and fiber crops, and chufas and any other seed commonly recognized within the state as agricultural or field seed and mixtures of such seed.

(3)(26) ~~The term "Breeder seed" means~~ seed that are released directly from the breeder or experiment station that develops the seed. These seed are one class above foundation seed.

(4)(25) ~~The terms "Certified seed," "registered seed," and "foundation seed" mean~~ seed that have been produced and labeled in accordance with

the procedures and in compliance with the rules and regulations of any agency authorized by the laws of this state or the laws of another state.

(5)(27) ~~The term "Date of test" means~~ the month and year the percentage of germination appearing on the label was obtained by laboratory test.

(6)(23) ~~The term "Dealer" means~~ any person who buys, sells, or offers for sale any agricultural, vegetable, flower, or forest tree seed for seeding purposes, and includes shall include farmers who sell \$10,000 worth or more of cleaned, processed, packaged, and labeled seed in any one year.

(7)(2) ~~The term "Department" means shall mean~~ the Department of Agriculture and Consumer Services or its authorized representative.

(8)(16) ~~The term "Dormant seed" refers to~~ seed, other than hard seed, which neither germinate nor decay during the prescribed test period and under the prescribed test conditions.

(9)(20) ~~The term "Flower seed" includes~~ seed of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower seed in this state.

(10)(22) ~~The term "Forest tree seed" includes~~ seed of woody plants commonly known and sold as forest tree seed.

(11)(14) ~~The term "Germination" means~~ the percentage of seed capable of producing normal seedlings under ordinarily favorable conditions. Broken seedlings and weak, malformed and obviously abnormal seedlings shall not be considered to have germinated.

(12)(15) ~~The term "Hard seed" means~~ the percentage of seed which because of hardness or impermeability did not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned.

(13)(31) ~~The term "Hybrid" means~~ the first generation seed of a cross produced by controlling the pollination and by combining:

(a) Two or more inbred lines;

(b) One inbred or a single cross with an open-pollinated variety; or

(c) Two varieties or species, except open-pollinated varieties of corn (*Zea mays*).

The second generation or subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names.

(14)(9) ~~The term "Inert matter" includes shall include~~ broken seed when one-half in size or less; seed of legumes or crucifers with the seed coats removed; undeveloped and badly injured weed seed such as sterile dodder which, upon visual examination, are clearly incapable of growth; empty glumes of grasses; attached sterile glumes of grasses (which must be removed from the fertile glumes except in *Rhodes* grass); dirt, stone, chaff, nematode, fungus bodies, and any matter other than seed.

(15)(6) ~~The term "Kind" means~~ one or more related species or subspecies which singly or collectively is known by one common name; e.g., corn, beans, lespedeza.

(16)(17) ~~The term "Labeling" includes~~ all labels and other written, printed, or graphic representations, in any form whatsoever, accompanying and pertaining to any seed, whether in bulk or in containers, and includes invoices and other bills of shipment when sold in bulk.

(17)(5) ~~The term "Lot of seed" means~~ a definite quantity of seed identified by a lot number or other identification, every portion or bag of which is uniform, for the factors which appear in the labeling, within permitted tolerances.

(18)(20) ~~The terms "Mixed" or "mixture" means mean~~ seed consisting of more than one kind or variety, each present in excess of 5 percent of the whole.

(19)(28) ~~The term "Origin" means~~ the state, District of Columbia, Puerto Rico, or possession of the United States, or the foreign country where the seed were grown, except for forest tree seed, with respect to which the term "origin" means the county or state forest service seed collection zone and the state where the seed were grown.

(20)(10) ~~The term~~ "Other crop seed" ~~includes shall include~~ all seed of plants grown in this state as crops, other than the kind or kind and variety included in the pure seed, when not more than 5 percent of the whole of a single kind or variety is present, unless designated as weed seed.

(21) ~~The term~~ "Processing" means conditioning, cleaning, scarifying, or blending to obtain uniform quality and other operations which would change the purity or germination of the seed and, therefore, require retesting to determine the quality of the seed.

(22)(12) "Prohibited noxious weed seed" ~~means are~~ the seed and bulblets of perennial weeds such as not only reproduce by seed or bulblets, but also spread by underground roots or stems and which, when established, are highly destructive and difficult to control in this state by ordinary good cultural practice.

(23)(8) ~~The term~~ "Pure seed" ~~includes shall include~~ all seed of the kind or kind and variety or strain under consideration, whether shriveled, cracked, or otherwise injured, and pieces of broken seed larger than one-half the original size.

(24) ~~The term~~ "Record" ~~includes shall include~~ the symbol identifying the seed as to origin, amount, processing, testing, labeling and distribution, file sample of the seed, and any other document or instrument pertaining to the purchase, sale, or handling of agricultural, vegetable, flower, or forest tree seed.

(25)(13) "Restricted noxious weed seed" ~~means are~~ the seed of such weeds as are very objectionable in fields, lawns, or gardens of this state, but can be controlled by good cultural practice. Seed of poisonous plants may be included.

(26)(19) "Stop-sale" ~~means shall include~~ any written or printed notice or order ~~given or~~ issued by the department to the owner or custodian of any lot of agricultural, vegetable, flower, or forest tree seed in the state, directing ~~the such~~ owner or custodian not to sell or, offer or ~~expose such~~ seed for sale ~~seed designated by the order~~ within the state until the requirements of this law ~~are shall have been~~ complied with and a written release has been issued; ~~except that the. Provided,~~ such seed may be released to be sold for feed.

(27)(30) ~~The term~~ "Treated" means that the seed has been given an application of a material or subjected to a process designed to control or repel disease organisms, insects, or other pests attacking seed or seedlings grown therefrom to improve its planting value or to serve any other purpose.

(28)(32) ~~The term~~ "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

(29)(7) ~~The term~~ "Variety" means a subdivision of a kind characterized by growth, plant fruit, seed, or other characteristics by which it can be differentiated from other sorts of the same kind; e.g. Whatley's Prolific corn, Bountiful beans, Kobe lespedeza.

(30)(4) ~~The term~~ "Vegetable seed" ~~means shall include~~ the seed of those crops which are grown in gardens or on truck farms, and are generally known and sold under the name of vegetable seed in this state.

(31)(11) ~~The term~~ "Weed seed" ~~includes shall include~~ the seed of all plants generally recognized as weeds within this state, and ~~includes shall include~~ prohibited and restricted noxious weed seed, bulblets, and tubers.

Section 23. Section 578.08, Florida Statutes, is amended to read:

#### 578.08 Registrations.—

(1) Every person, except as provided in subsection (4) and s. 578.14, before selling, distributing for sale, offering for sale, exposing for sale, handling for sale, or soliciting orders for the purchase of any agricultural, vegetable, flower, or forest tree seed or mixture thereof, shall first register with the department as a seed dealer. ~~The application for registration shall include, giving the name and location of each place of business at which the such seed is sold, distributed for sale, offered for sale, exposed for sale, or handled for sale. The application for registration shall be accompanied by and the name and address of each representative soliciting orders for purchase of any agricultural, vegetable, flower, or forest tree seed, and at the time of registration shall pay to the department an annual registration fee for each such place of business or each such representative based on the gross receipts from the sale of such seed for the last preceding license year as follows:~~

(a)1. Receipts less than \$2,500.01	\$1,000.01, fee.....	\$50 10
2. Receipts more than \$2,500	\$1,000 and less than \$5,000.01	\$2,500.01, fee..... \$100 20
3. Receipts more than \$5,000	\$2,500 and less than \$10,000.01	\$5,000.01, fee..... \$175 40
4. Receipts more than \$10,000	\$5,000 and less than \$20,000.01	\$10,000.01, fee..... \$400 70
5. Receipts more than \$20,000	\$10,000 and less than \$40,000.01	\$20,000.01, fee..... \$500 100
6. Receipts more than \$40,000	\$20,000 and less than \$70,000.01	\$30,000.01, fee..... \$600 150
7. Receipts more than \$70,000	\$30,000 and less than \$150,000.01	\$40,000.01, fee..... \$800 200
8. Receipts more than \$150,000	\$40,000 and less than \$400,000.01	\$50,000.01, fee..... \$1,200 300
9. Receipts more than \$400,000	\$50,000 and less than \$70,000.01, fee.....	\$2,300 400
10. Receipts more than \$70,000	and less than \$100,000.01, fee ...	500
11. Receipts more than \$100,000	and less than \$150,000.01, fee..	600
12. Receipts more than \$150,000	and less than \$200,000.01, fee..	800
13. Receipts more than \$200,000	and less than \$300,000.01, fee..	1,000
14. Receipts more than \$300,000	and less than \$400,000.01, fee..	1,200
15. Receipts more than \$400,000	and less than \$500,000.01, fee..	1,600
16. Receipts more than \$500,000, fee.....		2,000

(b) For places of business not previously in operation, the fee shall be based on anticipated receipts for the first license year.

(2) A written receipt or acknowledgment from the department of the such registration and payment of the such fee or fees shall constitute a sufficient permit for the such dealer to engage in or continue in the business of selling, distributing for sale, offering or exposing for sale, handling for sale, or soliciting orders for the purchase of any agricultural, vegetable, flower, or forest tree seed within the state until July 1 next thereafter, subject to compliance with the other requirements of this law. However, the department shall have authority to suspend or revoke any such permit for the violation of any provision of this law or of any rule adopted made and promulgated under authority hereof. The Such registration shall expire on June 30 of the next calendar year next thereafter and shall be renewed on July 1 of each year. If any person who is subject to the requirements of this section fails shall fail to comply herewith by August 1 of any year, the department may shall have the authority to issue a stop-sale notice or order against such person which shall prohibit the such person from selling or causing to be sold any agricultural, vegetable, flower, or forest tree seed until the requirements of this section are met complied with.

(3) Every person selling, distributing for sale, offering for sale, exposing for sale, handling for sale, or soliciting orders for the purchase of any agricultural, vegetable, flower, or forest tree seed in the state other than as provided in s. 578.14, shall be subject to the requirements of this section; ~~except. Provided,~~ that Florida State agricultural experiment stations of the State University System shall not be subject to the requirements of this section.

(4) The provisions of this chapter act shall not apply to farmers who sell only uncleaned, unprocessed, unpackaged, and unlabeled seed, but shall apply to farmers who sell cleaned, processed, packaged, and labeled seed in amounts in excess of \$10,000 in any one year; provided that the first \$10,000 worth of cleaned, processed, packaged, and labeled seed sold by any farmer shall be exempted from the provisions of this act.

Section 24. Paragraph (h) of subsection (2) of section 578.11, Florida Statutes, is redesignated as paragraph (i) and a new paragraph (h) is added to that subsection to read:

578.11 Duties, authority, and rules and regulations of the department.—

(2) The department is authorized:



(h) To analyze samples, as requested by a consumer. The department shall establish, by rule, a fee schedule for analyzing samples at the request of a consumer. The fees shall be sufficient to cover the costs to the department for taking the samples and performing the analysis, not to exceed \$150 per sample.

Section 25. For the purpose of incorporating the amendment to section 578.08, Florida Statutes, in a reference thereto, section 578.14, Florida Statutes, is reenacted to read:

578.14 Packet vegetable and flower seed.—When vegetable or flower seed are sold, offered for sale, or exposed for sale in packets of less than 8 ounces, the company who packs seed for retail sale shall register and pay fees as provided under s. 578.08.

Section 26. Subsection (1) of section 578.26, Florida Statutes, is amended to read:

578.26 Complaint, investigation, hearings, findings, and recommendation prerequisite to legal action.—

(1)(a) When any farmer is damaged by the failure of agricultural, vegetable, flower, or forest tree seed to produce or perform as represented by the label or labels attached to the such seed as required by s. 578.09, as a prerequisite to his right to maintain a legal action against the dealer from whom the such seed was purchased, the such farmer shall make a sworn complaint against the such dealer alleging damages sustained. The complaint shall be filed with the department, and a copy of the complaint shall be served by the department on the dealer by certified mail, within such time as to permit inspection of the crops, plants, or trees by the seed investigation and conciliation council or its representatives and by the dealer from whom the seed was purchased.

(b) Language setting forth the requirement for filing and serving the such complaint shall be legibly typed or printed on the analysis label or be otherwise attached to the package containing the such seed at the time of purchase by the farmer.

(c) A nonrefundable filing fee of \$100 \$10 shall be paid to the department with each complaint filed. However, the complainant may recover the filing fee cost, which fee shall be recovered from the dealer upon the recommendation of the seed investigation and conciliation council.

Section 27. Subsection (2) of section 578.28, Florida Statutes, is amended to read:

578.28 Seed in hermetically sealed containers.—The period of validity of germination tests is extended to the following periods for seed packaged in hermetically sealed containers, under conditions and label requirements set forth in this section:

(2) CONDITIONS OF PACKAGING.—The following conditions are considered as minimum:

(a) Hermetically sealed packages or containers.—A container, to be acceptable under the provisions of this section, shall not allow water vapor penetration through any wall, including the wall seals, greater than 0.05 gram of water per 24 hours per 100 square inches of surface at 100 °F. with a relative humidity on one side of 90 percent and on the other of 0 percent. Water vapor penetration (WVP) is measured by the standards of the National Institute of Standards and Technology as: gm H<sub>2</sub>O/24 hr./100 sq. in./100 °F/90 percent RH V. 0 percent RH.

(b) Moisture of seed packaged.—The moisture of agricultural or vegetable seed subject to the provisions of this section shall be established by rule of the department not exceed the following:

Family/Kind	Maximum percent Seed Moisture
<b>Gramineae</b>	
Sweet corn .....	8.0
Kentucky bluegrass .....	6.0
Creeping red fescue .....	3.0
Perennial ryegrass .....	8.0
<b>Liliaceae</b>	
Onion, leek, chive, Welsh onion .....	6.5
<b>Chenopodiaceae</b>	

Beet, chard .....	7.5
Spinach .....	8.0
<b>Cruciferae</b>	
Cabbage, broccoli, cauliflower, collards, Chinese cabbage, kale, turnip, rutabaga, kohlrabi, Brussels sprouts, mustard, radish .....	5.0
<b>Leguminosae</b>	
Snap bean, lima bean, pea .....	7.0
Crimson clover .....	8.0
<b>Umbelliferae</b>	
Carrot, celery, celeriac .....	7.0
Parasnip .....	6.0
Parsley .....	6.5
<b>Solanaceae</b>	
Tomato .....	5.5
Pepper .....	4.5
Eggplant .....	6.0
<b>Cucurbitaceae</b>	
Cucumber, muskmelon, squash, pumpkin .....	6.0
Watermelon .....	6.5
<b>Compositae</b>	
Lettuce .....	5.5
All other agricultural or vegetable seed not listed above .....	6.0

A tolerance of 1 percent is applicable to the maximum percentage of moisture listed above and the percentage of moisture found by an official test. The percentage of moisture shall be determined by the air oven method.

Section 28. Section 580.031, Florida Statutes, is amended to read:

580.031 Definitions of words and terms.—As When used in this chapter the term following terms shall have the meanings ascribed to them:

(1)(6) "Brand name" or "product name" means the term, design, or trademark or any other specific designation under which a commercial feed or feedstuff is distributed.

(2)(3) "Commercial feed" means any material or combination of materials which are distributed for use as feed or for mixing in a feed for animals other than humans eats, cattle, chickens, chinchilla, deer, dogs, ducks, farm pond food fish, aviary birds, game birds, wild birds, geese, goats, guinea pigs, guinea fowl, hamsters, horses, mice, mink, monkeys, mules, nutria, pheasants, pigeons, rabbits, rats, sheep, swine, or turkeys, except:

(a) Unmixed and unprocessed whole seeds.

(b) Unground hay, straw, stover, silage, cobs, husks, and hulls when unmixed with other material, provided that the department may, by rule, prohibit the inclusion of nonnutritive ingredients in commercial mixed feeds other than customer-formula feeds.

(c) Individual chemical compounds when unmixed with other materials.

(d) Mixed feed for the consumer's own use made entirely or in part from products raised on the consumer's farm, except as may be provided by rules of the department.

(3)(15) "Consumer" or "customer" means the person who purchases commercial feed or feedstuffs for feeding to animals. The term does not apply to members of the consuming public who purchase meat, milk, or eggs produced by animals being fed commercial feed or feedstuffs.

(4)(19) "Cooperative" means any corporation organized under the provisions of chapter 618 or chapter 619 for the mutual benefit of its members who are producers of agricultural products in which the return on the stock or membership capital is limited to an amount not to exceed 8 percent per annum, and in which during any fiscal year thereof the value of business done with nonmembers shall not exceed the business done with members during the same period. Cooperatives organized hereunder shall be deemed "nonprofit" inasmuch as they are not organized to make profit for themselves or for their members, but only for their members as producers.

(5) "Customer-formula feed" means a commercial feed that is mixed according to the formula of the customer, furnished in writing to the person mixing the commercial feed, over the signature of the customer.

(6)(1) "Distribute" means to offer for sale, sell, barter, or exchange commercial feed or feedstuffs or to supply, furnish, or otherwise provide commercial feed or feedstuffs for use by any consumer or customer in the state.

(7)(2) "Distributor" means any person who distributes commercial feed or feedstuffs.

(8)(16) "Drug" means any ingredient intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans ~~man~~ and intended to affect the structure or any function of the animal body.

(9)(14) "Feedstuff" means edible materials, other than commercial feed, which are distributed for animal consumption and which contribute energy or nutrients, or both, to an animal diet.

(10)(4) "Ingredient" means each of the constituent materials used to make a commercial feed.

(11)(7) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a product is distributed, or on the invoice accompanying the product.

(12)(8) "Labeling" means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers, or accompanying the ~~such~~ article or disseminated in any manner for the purpose of inducing, directly or indirectly, the purchase of commercial feed or feedstuff.

(13)(17) "Medicated feed" means a commercial feed or customer-formula feed which contains a drug.

(14)(20) "Member of a cooperative" means, in the case of a stock association, the owner of at least one share of voting stock, and, in the case of a nonstock association, a person who has been issued a membership certificate upon the payment of a membership fee of at least \$1,000, or who has an outstanding obligation of not less than \$1,000 owed to the member by the cooperative in accordance with the bylaws of the cooperative, and who is entitled to voting powers within the cooperative.

(15)(11) "Official sample" means any sample of commercial feed or feedstuff taken by the department and designated as official by the department.

(16)(10) "Percent" or "percentage" means percentage by weight.

(17)(18) "Registrant" means any person issued a master registration by the department.

(18)(12) "Special sample" means any sample of commercial feed or feedstuff which is not an official sample.

(19)(9) "Ton" means a net weight of 2,000 pounds avoirdupois.

(13) Except as provided by law or rule, all terms used in connection with commercial feed or feedstuffs shall have the meanings meaning ascribed to them by the Association of American Feed Control officials.

Section 29. Paragraph (a) of subsection (1) and paragraph (d) of subsection (2) of section 580.061, Florida Statutes, are amended to read:

580.061 Inspection fees, payment thereof; enforcement; reporting system and bond requirement.—

(1)(a) Each registrant or distributor of commercial feeds distributed in this state shall make application to the department for a permit to report the tonnage of commercial feeds sold and pay the inspection fee

of 50 cents per ton for all nonexempt sales thereof, as provided in this chapter. The issuance of a ~~such~~ permit will be conditioned on the applicant's satisfying the department that ~~he has~~ a good bookkeeping system ~~is in place and records are kept keeps such records~~ as may be necessary to indicate accurately the tonnage of commercial feeds sold in this state and on the applicant's granting the authorized representatives of the department permission to examine ~~the such~~ records and verify the tonnage statement. The tonnage report shall be filed monthly, quarterly, semiannually, or annually as determined by the department. The inspection fees owed shall be due and payable on or before the last day of the month covering the tonnage of nonexempt commercial feeds sold during the preceding reporting period. The report shall be on forms furnished by the department and shall show the number of tons of feed. Each applicant for a ~~such~~ permit shall post with the department a surety bond, or assign a certificate of deposit, in ~~an such~~ amount ~~as shall be~~ required by the department to cover fees for any given reporting period, which amount shall not be less than \$1,000. The surety bond shall be executed by a corporate surety company authorized to do business in this state. The certificate of deposit shall be issued by any recognized financial institution doing business in the United States. The department shall establish, by rule, whether an annual or continuous surety bond or certificate of deposit will be required and shall approve each surety bond or certificate of deposit before acceptance. ~~If the tonnage report is not filed, the inspection fee is not paid on the date due, or the report of tonnage is false, the amount of the inspection fee due is subject to a penalty of 10 percent of the tonnage inspection fee due or \$25, whichever is greater. The penalty shall be added to the inspection fee due and constitutes a debt and becomes a claim and lien against the surety bond or certificate of deposit.~~

(2)

(d) All commercial feeds distributed by a registrant or distributor that is a cooperative, as described in chapter 618 or chapter 619, to a member of the cooperative are exempt from the fee imposed by this chapter. ~~If a cooperative, as described in chapter 618 or chapter 619, sells any commercial feed to an individual or entity that is not a member of the cooperative, the cooperative loses its exemption status for that registration year and the fee imposed by this chapter becomes due and payable in accordance with the requirements of this chapter on all sales of commercial feed for the entire registration year. The department shall establish, by rule, the manner in which retroactive fees are to be collected. Any sales made by such cooperative to individuals or entities which are not members of the cooperative are not exempt from such fee.~~

Section 30. Subsection (5) of section 580.091, Florida Statutes, is amended to read:

580.091 Inspection; sampling; analysis.—

(5) When the inspection and analysis of an official sample indicate a commercial feed or feedstuff is in violation of this chapter, the results of analysis shall be forwarded by the department to the persons directly affected. On request, within 30 days from the date of report, the department shall furnish to the registrant a portion of the sample concerned for check analysis. If requested by the registrant within 60 days from the date of report, the department shall forward other portions of the sample to two referee chemists agreed upon by the department and the registrant.

(a) ~~When either of the two referee analyses differs not more than 0.3 percent from the official analysis, the official analysis shall be unchanged. If both referee analyses differ more than 0.3 percent from the official analysis, the two analyses closest in agreement shall be averaged and this result The average of analyses reported by the department and the two referee chemists shall become the official analysis. The analysis fees of the referee chemists shall be paid by the registrant when the amended official analysis average of the analyses reported by the referee chemists is not within the established tolerance level. When the amended official analysis average of the analyses reported by the referee chemists is within the established tolerance level, the analysis fees of the referee chemists shall be paid by the department out of the General Inspection Trust Fund.~~

(b) When a microscopic determination made by the department is challenged by the registrant, the official sample shall be based on findings of the majority of the results of the department and the two referee chemists. The analysis fees of the referee chemists shall be paid by the registrant when the official sample shows the analysis of the department

to be correct. When the official sample shows the analysis of the department to be incorrect, the analysis fees of the referee chemists shall be paid by the department out of the General Inspection Trust Fund.

Section 31. Subsection (1) of section 580.151, Florida Statutes, is amended to read:

**580.151 Commercial Feed Technical Council.—**

(1) **COMPOSITION.**—The Commercial Feed Technical Council is created in the Department of Agriculture and Consumer Services and shall be composed of *nine* ~~eight~~ members to be appointed by the Commissioner of Agriculture of which there shall be three representatives of commercial feed manufacturers; three representatives of agricultural customers of commercial feed; *one representative of the Institute of Food and Agricultural Sciences of the University of Florida*; and two representatives of the Department of Agriculture and Consumer Services, one of whom shall serve as secretary of the council.

Section 32. Section 575.08, Florida Statutes, is repealed.

Section 33. Sections 580.011, 580.021, 580.031, 580.041, 580.051, 580.061, 580.071, 580.081, 580.091, 580.101, 580.111, 580.112, 580.121, 580.131, 580.141, and 580.151, Florida Statutes, are repealed July 1, 1993.

Section 34. This act shall take effect July 1, 1992, except that section 29 shall take effect October 1, 1992.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to agricultural fertilizers; amending s. 576.011, F.S.; revising definitions; amending s. 576.021, F.S.; requiring annual licensing of fertilizer distributors and annual registration of specialty fertilizer distributors by the Department of Agriculture and Consumer Services; providing fees; providing application contents; amending s. 576.031, F.S.; providing labeling requirements for fertilizer and specialty fertilizer; amending s. 576.041, F.S.; revising provisions relating to inspection fees, records, and required bond; increasing inspection fees; providing for use of such fees; providing a penalty for nonpayment of tonnage fee; increasing inspection fee penalty; revising bonding requirements; amending s. 576.051, F.S., relating to inspection, sampling, and analysis; authorizing inspection warrants for regulatory inspection by the department; providing for the use of fertilizer analysis reports rather than certificates of analysis; amending s. 576.055, F.S., relating to deconforming; to conform; amending s. 576.061, F.S.; relating to plant nutrient tolerances and deficiencies; increasing penalties; conforming terminology; providing for use of proceeds from payment of penalties; amending s. 576.085, F.S.; providing that the department shall establish plant nutrient content by rule; creating s. 576.087, F.S.; requiring the use of antisiphon devices for specified irrigation systems; amending s. 576.091, F.S.; changing the composition of the Fertilizer Technical Council; deleting provisions relative to official action by the council and per diem; amending s. 576.101, F.S.; providing for cancellation, revocation, and suspension of license; providing for probationary status; amending s. 576.111, F.S., relating to stop-sale, stop-use, removal, and hold orders, to conform; amending s. 576.122, F.S., relating to seizure, condemnation, and sale; amending s. 576.132, F.S., relating to recovery of damages; amending s. 576.141, F.S., relating to sales or exchanges between manufacturers or licensees; amending s. 576.151, F.S.; authorizing the use of specified fertilizer materials under certain conditions; amending ss. 576.181, 576.191, F.S., relating to administration, rules, procedure, and enforcement of ch. 576, F.S.; providing for review and repeal of ch. 576, F.S.; amending s. 575.01, F.S.; clarifying definitions relating to certification of seed; amending s. 575.07, F.S.; providing for penalties and administrative fines; amending s. 578.011, F.S.; revising definitions under the Florida Seed Law; amending s. 578.08, F.S.; revising seed registration requirements; revising registration fee schedule; amending s. 578.11, F.S.; authorizing the department to analyze seed samples as requested by a consumer; providing for fees; reenacting s. 578.14, F.S., relating to packet vegetable and flower seed, to incorporate the amendment to s. 578.08, F.S., in a reference thereto; amending s. 578.26, F.S.; increasing the fee for filing a complaint; providing for recovery of costs; amending s. 578.28, F.S., relating to seed in hermetically sealed containers; providing that the moisture of specified packaged agricultural or vegetable seed shall be established by rule of the department; amending s. 580.031, F.S.; clarifying definitions relating to commercial feed and feedstuffs; amending s. 580.061, F.S., relating to inspection fees, payment, enforcement, reporting, and bond; providing a penalty; amending s. 580.091, F.S., relating to commercial feed inspection, sampling, and analysis; providing for pay-

ment of analysis fees; amending s. 580.151, F.S.; providing for an additional member of the Commercial Feed Technical Council; repealing s. 575.08, F.S., relating to the enforcement of ch. 575, F.S., the "Florida Certification Seed Law"; repealing ch. 580, F.S., relating to commercial feed and feedstuffs; providing an effective date.

Senator Thurman moved the following amendment to **Amendment 1** which was adopted:

**Amendment 1A**—On page 52, strike all of lines 5-10 and insert: *cooperative, the cooperative shall be subject to an administrative fine, to be set by rule of the department. The department rule shall establish a schedule of fines not to exceed \$10,000 and a method of monitoring the sales to ensure the exemption is being properly applied. Such rules shall provide that upon a finding that such sale on a one-time basis was inadvertent or unintentional, the imposition of the fine shall be abated. Any*

**Amendment 1** as amended was adopted.

On motion by Senator Souto, by two-thirds vote **CS for CS for HB 839** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34      Nays—None

**SJR 152**—A joint resolution proposing an amendment to Section 3 of Article VII of the State Constitution relating to ad valorem taxes and exemptions.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Malchon and adopted:

**Amendment 1**—On page 3, line 11, strike "from" and insert: *for*

On motion by Senator Malchon, by two-thirds vote **SJR 152** as amended was read the third time in full as follows:

**SJR 152**—A joint resolution proposing an amendment to Section 3 of Article VII of the State Constitution relating to ad valorem taxes and exemptions.

*Be It Resolved by the Legislature of the State of Florida:*

That the following amendment to Section 3 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose, and, if approved, shall take effect January 1, 1993:

## ARTICLE VII FINANCE AND TAXATION

### SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the

expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

(e) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties engaging in the rehabilitation or renovation of these structures in accordance with approved historic preservation guidelines. This exemption may be granted only by ordinance of the county or municipality. The amount or limits of the amount of this exemption and the requirements for eligible properties must be specified by general law. The period of time for which this exemption may be granted to a property owner shall be determined by general law.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT  
ARTICLE VII, SECTION 3

**HISTORIC PRESERVATION AD VALOREM TAX EXEMPTION.**—Proposing an amendment to the State Constitution, effective January 1, 1993, to permit any county or municipality to authorize ad valorem tax exemptions for owners of historic property to encourage the rehabilitation or renovation of such structures, subject to general law.

—and as amended passed by the required constitutional three-fifths vote of the membership, and was certified to the House. The vote on passage was:

Yeas—31      Nays—None

Consideration of CS for SB 1900 was deferred.

**CS for SB 776**—A bill to be entitled An act relating to ad valorem taxes and exemptions for historic properties; creating s. 196.1997, F.S.; providing that the board of county commissioners of any county or the governing authority of any municipality may adopt ordinances to grant ad valorem tax exemptions under s. 3, Art. VII of the State Constitution to owners of historic properties; providing that such tax exemptions may be granted for improvements to historic properties which are a result of the restoration, renovation, or rehabilitation of those properties; specifying requirements for ordinances granting exemptions; providing procedures for application for an exemption; establishing qualifications for applicants to be approved for an exemption; requiring property appraisers to provide certain information to the local governing authorities; providing duties of the Division of Historical Resources of the Department of State or local historic preservation offices; requiring the Department of State to adopt certain rules; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendment which was adopted:

**Amendment 1 (with Title Amendment)**—On page 7, between lines 3 and 4, insert:

Section 2. Section 196.1998, Florida Statutes, is created to read:

196.1998 Additional ad valorem tax exemptions for historic properties open to the public.—

(1) If an improvement qualifies a historic property for an exemption under s. 196.1997, and the property is used for non-profit or governmental purposes and is regularly and frequently open for the public's visitation, use, and benefit, the board of county commissioners or the governing authority of the municipality by ordinance may authorize the exemption from ad valorem taxation of up to 100 percent of the assessed

value of the property, as improved, any provision of s. 196.1997(2) to the contrary notwithstanding, if all other provisions of that section are complied with; provided, however, that the assessed value of the improvement must be equal to at least 50% of the total assessed value of the property as improved. The exemption applies only to real property to which improvements are made by or for the use of the existing owner. In order for the property to qualify for the exemption provided in this section, any such improvements must be made on or after the day the ordinance granting the exemption is adopted.

(2) In addition to meeting the criteria established in rules adopted by the Department of State under s. 196.1997, a historic property is qualified for an exemption under this section if the Division of Historical Resources, or the local historic preservation office, whichever is applicable, determines that the property meets the criteria established in rules adopted by the Department of State under this section.

(3) In addition to the authority granted to the Department of State to adopt rules under s. 196.1997, the Department of State shall adopt rules as provided in chapter 120 for the implementation of this section, which shall include criteria for determining whether a property is qualified for the exemption authorized by this section, and other rules necessary to implement this section.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 24, after the semicolon (;) insert: creating s. 196.1998, F.S.; providing additional ad valorem tax exemptions for historic properties open to the public; providing for additional rules;

On motion by Senator Malchon, by two-thirds vote **CS for SB 776** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35      Nays—None

**SB 938**—A bill to be entitled An act relating to saltwater fishing licenses; amending s. 370.0605, F.S.; providing that a person who operates a vessel for the purpose of transporting persons to engage in scuba diving and snorkeling is not required to obtain a saltwater fishing license; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources and Conservation recommended the following amendments which were moved by Senator Scott and adopted:

**Amendment 1**—On page 1, line 20, strike "while on board the vessel"

**Amendment 2 (with Title Amendment)**—On page 1, line 20, after the period (.) insert: *However, the boat operator shall be responsible for ensuring that anyone on the vessel that takes marine fish shall have the proper license. If anyone on the vessel takes marine fish without the proper license, the operator shall incur the same penalties as the person without the license.*

And the title is amended as follows:

In title, on page 1, line 7, after the semicolon (;) insert: requiring the person operating said vessel to ensure that those taking marine fish possess the proper license; providing for a penalty;

Senator Scott moved the following amendment which was adopted:

**Amendment 3 (with Title Amendment)**—On page 1, between lines 20 and 21, insert:

Section 2. Paragraph (b) of subsection (3) of section 370.0605, Florida Statutes, is amended, and paragraph (j) is added to said subsection, to read:

370.0605 Saltwater fishing license required; fees.—

(3) A saltwater fishing license is not required for:

(b) Any Florida resident fishing ~~in saltwater~~ from land or from a structure fixed to the land.

(j) Any person fishing for mullet from a vessel in freshwater with a hook and line.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 7, after the semicolon (;) insert: amending s. 370.0605, F.S.; providing that a saltwater fishing license is not required for any Florida resident fishing from land or from a structure fixed to the land; exempting certain fishing from a vessel in freshwater;

Senators Plummer, Souto, Casas and Diaz-Balart offered the following amendments which were moved by Senator Plummer and adopted:

**Amendment 4**—On page 1, between lines 20 and 21, insert:

Section 2. Notwithstanding the provisions of chapter 91-154, Laws of Florida, the transferable trap certificate program for the spiny lobster fishery created pursuant to section 370.142, Florida Statutes, including the issuance of recreational trap tags, shall not become effective until July 1, 1993.

Section 3. Supplemental appropriations for the spiny lobster trap certificate program.—

(1) The sum of \$30,000 is transferred in fiscal year 1991-1992 from the Florida Saltwater Products Trust Fund to the Marine Biological Research Trust Fund for use by the Department of Natural Resources in enhancing the implementation of the spiny lobster trap certificate program as follows:

(a) For fiscal year 1991-1992, the sum of \$15,000 of such moneys in the Marine Biological Research Trust Fund may be used.

(b) For fiscal year 1992-1993, the sum of \$15,000 of such moneys in the Marine Biological Research Trust Fund may be used.

(2) Such moneys shall be repaid to the Florida Saltwater Products Trust Fund by July 1, 1994, from the proceeds of the annual trap certificate fees collected pursuant to section 370.142(2)(b), Florida Statutes, prior to deposit thereof under section 370.142(5)(b), Florida Statutes.

(Renumber subsequent section.)

**Amendment 5**—On page 1, line 7, after the semicolon (;) insert: providing for the transferable trap certificate program for the spiny lobster fishery, including the recreational trap tagging program, to become effective on July 1, 1993;

On motion by Senator Scott, by two-thirds vote **SB 938** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33      Nays—1

#### SENATOR CHILDERS PRESIDING

**SB 1674**—A bill to be entitled An act relating to administrative procedures; amending ss. 120.52, 120.535, 120.54, 120.56, 120.57, 120.59, 120.65, 120.68, 455.225, F.S.; providing definitions; providing for issuance of final orders by hearing officers assigned by the Division of Administrative Hearings in proceedings under s. 120.57(1), F.S.; providing for preliminary and final orders; providing for awarding attorney's fees and costs in specified circumstances; requiring Senate confirmation of hearing officers of the Division of Administrative Hearings; providing exceptions to Career Service appeal rights; providing that an agency, in certain circumstances, is entitled to judicial review; deleting a provision that allows an agency to grant a stay; providing for remand; providing an effective date.

—was read the second time by title.

Senator Dudley moved the following amendments which were adopted:

**Amendment 1**—On page 2, strike all of lines 21-26 and insert:

(16)(15) "Recommended order" means the official recommendation of a hearing officer assigned by the division to an agency in any disciplinary proceeding against a licensee, in a challenge to an examination in which the Department of Professional Regulation or a board created within the department is a party, the official recommendation of a hearing officer other than a hearing officer assigned by the division, or the official recommendation of any other duly authorized presiding officer, other than an agency head or member thereof, for the final disposition of a proceeding under s. 120.57.

**Amendment 2**—On page 8, strike all of lines 1 and 2 and insert:

9. With respect to a disciplinary proceeding against a licensee, a challenge to an examination in which the Department of Professional Regulation or a board created within the department is a party, or proceedings before a hearing officer not assigned by the division:

**Amendment 3**—On page 9, line 4, after "division" insert: , except for a disciplinary proceeding against a licensee or a challenge to an examination in which the Department of Professional Regulation or a board created within the department is a party:

**Amendment 4 (with Title Amendment)**—On page 18, between lines 25 and 26, insert:

Section 11. The Legislature finds that the official reporters used by the Public Employees Relations Commission on May 28, 1991, are in compliance with the requirements for indexing and availability of orders in section 120.53(2)(a), Florida Statutes, as amended by section 2 of chapter 91-30, Laws of Florida.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 18, after the second semicolon (;) insert: specifying legislative finding regarding official reporters of Public Employees Relations Commission;

On motion by Senator Thomas, by two-thirds vote **SB 1674** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35      Nays—2

**SJR 922**—A joint resolution proposing an amendment to Section 4 of Article X of the State Constitution, relating to homestead property, to remove the prohibition against the devise of a homestead.

*Be It Resolved by the Legislature of the State of Florida:*

That the following amendment to Section 4 of Article X of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

#### ARTICLE X MISCELLANEOUS

##### SECTION 4. Homestead; exemptions.—

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:

(1) a homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or his family;

(2) personal property to the value of one thousand dollars.

(b) These exemptions shall inure to the surviving spouse or heirs of the owner.

(c) ~~The homestead shall not be subject to devise if the owner is survived by spouse or minor child, except the homestead may be devised to the owner's spouse if there be no minor child.~~ The owner of homestead real estate, joined by the spouse if married, may alienate the homestead by mortgage, sale or gift and, if married, may by deed transfer the title to an estate by the entirety with the spouse. If the owner or spouse is incompetent, the method of alienation or encumbrance shall be as provided by law.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

#### CONSTITUTIONAL AMENDMENT ARTICLE X, SECTION 4

**HOMESTEAD EXEMPTIONS.**—Proposing an amendment to the State Constitution to delete the prohibition against an owner devising his homestead if he is survived by a spouse or minor child except to the owner's spouse if there is no minor child.

—was read the second time in full. On motion by Senator Dudley, by two-thirds vote **SJR 922** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and was certified to the House. The vote on passage was:

Yeas—35      Nays—None

Consideration of **CS for SB 1974** was deferred.

**CS for SB 2108**—A bill to be entitled An act relating to criminal justice standards and training; amending s. 943.11, F.S.; revising the membership of the Criminal Justice Standards and Training Commission; amending s. 943.13, F.S.; providing an implementation date for examination; amending s. 943.133, F.S.; requiring the Criminal Justice Standards and Training Commission to adopt rules to be used by employing agencies in conducting background investigations of officers; amending s. 943.139, F.S.; providing notification requirements for employing agencies upon separation from employment of an officer; providing an administrator of an employing agency with immunity from civil liability; amending s. 943.1395, F.S.; providing circumstances under which an employing agency must conduct an internal investigation; revising circumstances under which the commission may revoke an officer's certification; requiring the commission to adopt disciplinary guidelines; providing requirements for disciplinary hearings; amending s. 943.22, F.S.; redefining the term "accredited college, university, or community college" for purposes of a salary incentive program for certain officers; revising a reporting requirement for employing agencies; conforming a cross-reference to changes made by the act; providing an effective date.

—was read the second time by title. On motion by Senator Yancey, by two-thirds vote **CS for SB 2108** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34      Nays—None

Consideration of **CS for SB 2000** was deferred.

**CS for SB 1578**—A bill to be entitled An act relating to public school crossing guards; creating s. 234.302, F.S.; requiring certain local governmental entities to provide training programs for crossing guards; requiring adoption of training guidelines; requiring successful completion of program; amending s. 318.21, F.S.; providing for the funding of crossing guard training programs from civil penalties for certain traffic infractions; providing an effective date.

—was read the second time by title.

Senator Wexler moved the following amendments which were adopted:

**Amendment 1 (with Title Amendment)**—On page 1, strike all of lines 23-28 and insert: school crossing guards adopted by the Department of Transportation. Successful completion of such training program shall be required of each school guard except:

- (1) A person who received equivalent training during employment as a law enforcement officer;
- (2) A person who receives less than \$5,000 in annual compensation in a county with a population of less than 75,000; and
- (3) A student who serves in a school patrol.

School crossing guard training programs may be made available to non-public schools upon contract.

And the title is amended as follows:

In title, on page 1, line 7, after the semicolon (;) insert: providing exemptions;

**Amendment 2**—On page 2, line 9, strike "when" and insert: when

Senator Dudley moved the following amendments which were adopted:

**Amendment 3**—On page 1, line 23, strike "Education" and insert: Transportation

**Amendment 4**—On page 2, strike all of lines 9-17 and insert: fund a municipal school crossing guard training program, a school crossing guard program, ~~when such a program is established by ordinance~~; and for other lawful purpose.

(b) Moneys paid to a county under subparagraph (2)(g)2. shall be used to fund local criminal justice training as provided in s. 943.25(13) when such a program is established by ordinance, to fund a county school crossing guard training program, a school crossing guard program, ~~when such a program is established by ordinance~~, and for any other lawful purpose.

**Amendment 5**—In title, on page 1, line 9, after "programs" insert: and crossing guard programs

On motion by Senator Wexler, further consideration of **CS for SB 1578** as amended was deferred.

## THE PRESIDENT PRESIDING

The Senate resumed consideration of—

**CS for SB 2390**—A bill to be entitled An act relating to group health insurance; creating s. 627.6699, F.S.; creating the "Employee Health Care Access Act"; providing purpose and intent; providing definitions; providing for application; providing for availability of coverage; providing procedures for electing to become a risk-assuming carrier; providing for a standard health benefit plan and a basic health benefit plan to be offered to all small employers; restricting the use of exclusions for preexisting conditions; establishing a health reinsurance program for small employers; providing for assessment of small employer carriers under the program; providing standards for marketing health care plans; providing for applicability of other state laws; authorizing the Department of Insurance to adopt rules for implementing and administering the act; requiring small employers to file with the department certain premium information relating to a certain time period; providing severability; providing an effective date.

—with pending **Amendment 1**, by Senator Jenne, as amended.

Senator McKay moved the following amendments to **Amendment 1** which were adopted:

**Amendment 1F**—On page 39, between lines 8 and 9, insert:

Section 3. Subsections (13), (14), (15), (16), and (17) are added to section 409.912, Florida Statutes, to read:

409.912 Cost-effective purchasing of health care.—The department shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The department shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies designed to facilitate the cost-effective purchase of a case-managed continuum of care. The department shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(13)(a) The department shall require each recipient of Medicaid who receives payments from or is determined eligible for the aid to families with dependent children program and certain related Medicaid-eligible well children, to the extent permitted by federal law, to participate in a managed-care program. A managed-care program may include a state-licensed health maintenance organization, a Medicaid prepaid health plan, a Medicaid primary care case management program, or other similar program that emphasizes primary care and contains financial incentives for a provider to manage health care on a comprehensive, cost-effective basis for a majority of the recipient's health care needs.

(b) The department shall apply for a federal freedom-of-choice waiver and any other waiver authority necessary to expand its current primary care case management program known as MediPass from the department's Districts 5 and 6 to all counties in the state.

(c) In counties of more than 1 million population, where at least six health maintenance organizations or prepaid health plans offer comprehensive prepaid capitated services to Medicaid recipients, the department shall pursue a freedom-of-choice waiver and other federal authority, if necessary, to require all Medicaid recipients who receive payments from or are determined eligible for the aid to families with dependent children program and certain related Medicaid-eligible well children to enroll in a plan offering comprehensive, prepaid capitated health services. The department may also introduce a primary care case management program in any such county.



(d) A program may not be started under this subsection unless the department has secured the necessary federal waiver authority to assure that federal matching funds are available to pay for these services. In addition, a program may not be started unless the Assistant Secretary for Medicaid certifies, for each county where a program is to be started, that the necessary resources, including staff, are available to adequately inform recipients of their choice of managed-care plans and to enroll them with a provider and that the necessary resources, including staff, are available to adequately recruit providers, assure access, monitor performance and patient satisfaction, and assess the quality of care provided.

(14)(a) The department shall develop and require participation in managed-care programs for various special population groups within the Medicaid program, where feasible and cost effective, to the maximum extent permitted by federal law.

(b) The department shall investigate the feasibility of developing managed-care programs for and apply for waivers if necessary for at least the following groups of Medicaid beneficiaries:

1. Pregnant women.
2. Chronically ill children.
3. Elderly and disabled recipients, especially those who are at risk of nursing home placement.
4. Developmentally disabled individuals.
5. Qualified Medicare beneficiaries.
6. Adults who have chronic, high-cost medical conditions.
7. Adults and children who have mental health problems, especially those who have chronic mental health problems.
8. Other recipients for whom managed-care programs offer the opportunity of more cost-effective care and greater access to qualified providers.

(c) A program may not be started under this subsection unless the department has secured the necessary federal waiver authority to assure that federal matching funds are available to pay for services. In addition, a program may not be started unless the Assistant Secretary for Medicaid certifies, for each county where a program is to be started, that the necessary resources are available to adequately inform recipients of their choice of managed-care plans and to enroll them with a provider and that the necessary resources, including staff, are available to adequately recruit providers, assure access, monitor performance and patient satisfaction, and assess the quality of care provided.

(15)(a) The department shall encourage Medicaid recipients who receive payments from or are determined eligible for the Supplemental Security Income program, to the maximum extent feasible, to enroll in Medicaid or Medicare managed-care plans.

(b) The department shall require the enrollment of such Medicaid recipients who are not Medicare beneficiaries in a health maintenance organization or Medicaid prepaid health plan if available, or a primary care case management program or a special waiver program as applicable, to the extent permitted by federal law. The department shall develop a special reimbursement rate, which takes into consideration the higher utilization of such Medicaid recipients, for payment to health maintenance organizations or prepaid health plans agreeing to enroll these recipients.

(c) The department shall work cooperatively with the Social Security Administration and the Health Care Financing Administration to identify beneficiaries who are jointly eligible for Medicare and Medicaid and shall develop cooperative programs to encourage these beneficiaries to enroll in a Medicare participating health maintenance organization or prepaid health plan.

(d) A program may not be started under this subsection unless the department has secured the necessary federal waiver authority to assure that federal matching funds are available to pay for these services. In addition, a program may not be started unless the Assistant Secretary for Medicaid certifies, for each county where a program is to be started, that the necessary resources, including staff, are available to adequately inform recipients of their choice of managed-care plans and enroll them with a provider and that the necessary resources, including

staff, are available to adequately recruit providers, assure access, monitor performance and patient satisfaction, and assess the quality of care provided.

(16)(a) The department shall encourage the development of public and private partnerships to foster the growth of health maintenance organizations and prepaid health plans that will provide high-quality health care to Medicaid recipients. In addition, the department shall assure that recipients are adequately informed of their rights and choices under managed health care and that managed-care plans offering care to Medicaid recipients are adequately monitored for quality of care, patient satisfaction, appropriate administrative controls, financial solvency, and such other factors as are necessary.

(b) The department may enter into contracts with traditional providers of health care to low-income persons to assist such providers with the technical aspects of cooperatively developing Medicaid prepaid health plans.

1. A contract must require participation by at least one community clinic and one disproportionate share hospital.

2. Eligible recipients for these contracts include disproportionate share hospitals, county public health units, federally initiated or federally funded community health centers, and counties that operate either a hospital or a community clinic.

3. A contract may not be extended with any particular provider for more than 2 years. The contract is intended only as seed or development funding, requires a commitment from the interested party, and must be for no less than \$25,000 nor more than \$65,000.

(c) The department shall develop and implement a comprehensive plan to assure that recipients are adequately informed of their choices and rights under a managed-care program and that managed-care programs meet acceptable standards of quality in patient care, patient satisfaction, and financial solvency.

1. The department must provide adequate means for informing patients of their choice and rights under a managed-care plan at the time of eligibility determination.

2. The department must monitor all plans offering comprehensive, prepaid capitated health services at least quarterly; review patient grievances, disenrollment forms, medical records, and financial records; and require all plans to establish methods for assuring quality and patient satisfaction.

(d) The department shall contract with the Florida Health Care Purchasing Cooperative to develop performance criteria for plans offering comprehensive, prepaid capitated health services. These criteria must be used by the department and the cooperative to monitor patient satisfaction, patient grievances, disenrollment, quality of care, and financial viability. To the extent possible, these criteria should be the same as those developed by the cooperative for other government entities. Plans offering comprehensive, prepaid capitated health services must provide the department and the cooperative with the necessary information to measure their performance as a condition of their contracts. The department and the cooperative shall coordinate their monitoring and information-collection activities and share information to avoid duplication in performing such activities.

(17) The department shall apply for federal waivers to implement competitive bidding and selective contracting procedures as one method of determining Medicaid reimbursement for hospital services. The waiver must be designed to test the cost effectiveness of this alternative reimbursement method. If the department obtains a waiver, the department shall conduct a pilot test of such competitive bidding and selective contracting procedures. The initial pilot model may be limited to certain Medicaid eligibility groups and must be conducted in District 7.

Section 4. The Department of Health and Rehabilitative Services is authorized to transfer sufficient budget and funds appropriated for hospital inpatient services to prepaid health plans and other appropriation categories as necessary to implement the provisions of section 3 and is authorized to establish up to 30 positions. However, the amount of transfer and the number of positions shall be authorized only after and in the amount verified as related cost savings as projected by the Social Services Estimating Conference. The department shall insure that no net fiscal impact on state funds results from the provision of section 3 and to this effect is authorized to stagger this implementation in a manner that accomplishes this condition.

**Amendment 1G**—On page 40, line 19, after the semicolon (;) insert: requiring the department to apply for federal waivers to implement competitive bidding and selective contracting procedures; requiring the department to pilot test competitive bidding and selective contracting procedures if waivers are obtained; amending s. 409.912, F.S.; requiring the Department of Health and Rehabilitative Services to apply for federal waivers to expand enrollment of Medicaid recipients in managed care plans; requiring the department to enroll certain Medicaid clients in managed care plans, if federal waivers are obtained; authorizing the department to contract with certain entities to develop Medicaid prepaid health plans; requiring the department to inform recipients of their choices and rights and to monitor managed care plans; requiring the department to contract for certain services with the Florida Health Care Purchasing Cooperative; authorizes the resources necessary to implement the Medicaid managed care provisions;

Senator Forman moved the following amendment to **Amendment 1** which was adopted:

**Amendment 1H**—On page 2, line 31, after "accident-only," strike "individual"

**Amendment 1** as amended was adopted.

On motion by Senator Jenne, by two-thirds vote **CS for SB 2390** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35      Nays—None

**CS for SB 2114**—A bill to be entitled An act relating to corrections; amending s. 944.026, F.S.; revising requirements for community-based residential drug treatment facilities; providing for commitment of certain drug offenders to such facilities; amending s. 948.001, F.S.; revising certain caseload restrictions for supervision of drug offenders; amending s. 948.51, F.S.; requiring community corrections programs and plans to include provisions for public safety; amending s. 950.002, F.S.; deleting a requirement that certain beds in a county work camp be reserved for offenders who are sentenced to a term of incarceration; amending s. 951.26, F.S.; redesignating the county correctional planning committees as county public safety coordinating councils; requiring meetings and records of the councils to be open to the public; providing an effective date.

—was read the second time by title.

Senator Yancey moved the following amendment which was adopted:

**Amendment 1**—On page 11, between lines 11 and 12, insert:

(9) *For the purposes of this section, the term "public safety" does not include the investigative, patrol or administrative activities of a law enforcement agency.*

On motion by Senator Yancey, by two-thirds vote **CS for SB 2114** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34      Nays—None

**CS for SB 1524**—A bill to be entitled An act relating to correctional education; amending s. 242.68, F.S.; authorizing the Board of Correctional Education to contract with state-licensed independent postsecondary schools for educational services; providing contract requirements; requiring the board to adopt rules governing the contracts; authorizing the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to investigate violations of rules adopted by the Board of Correctional Education; requiring each independent postsecondary school operating under a contract with the Board of Correctional Education to document its compliance with rules; providing for termination of contracts by the Board of Correctional Education; amending s. 246.203, F.S.; revising the definition of the term "school" for purposes of ss. 246.201-246.231, F.S.; amending s. 246.213, F.S.; requiring the State Board of Education to adopt certain licensing requirements for independent postsecondary schools that operate within state correctional facilities; requiring the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to make certain recommendations to the Board of Correctional Education; amending s. 246.215, F.S.; providing licensing requirements for independent postsecondary schools that operate within state correctional facilities; amending s. 246.228, F.S.; authorizing the Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to take certain disciplin-

ary actions against schools that violate rules adopted by the Board of Correctional Education; amending s. 246.229, F.S.; authorizing the Department of Legal Affairs and the state attorney to enforce rules adopted by the Board of Correctional Education; amending s. 246.231, F.S.; providing penalties; providing an effective date.

—was read the second time by title. On motion by Senator Dantzler, by two-thirds vote **CS for SB 1524** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

**CS for SB 2000**—A bill to be entitled An act relating to the state correctional system; amending s. 944.023, F.S.; revising the definition of the term "lawful capacity"; providing standards for design capacity and maximum capacity; requiring the correctional master plan to include habitability and inventory criteria; amending ss. 944.096, 944.598, F.S., to conform; providing a contingent effective date.

—was read the second time by title.

One amendment was adopted to **CS for SB 2000** to conform the bill to **HB 2165**.

Pending further consideration of **CS for SB 2000** as amended, on motions by Senator Dantzler, by two-thirds vote—

**HB 2165**—A bill to be entitled An act relating to the state correctional system; amending s. 945.602, F.S.; providing additional membership requirements for persons appointed to the Correctional Medical Authority and revising certain voting provisions; amending s. 945.603, F.S.; revising powers and duties of the authority; amending s. 945.6031, F.S.; providing for additional reports and corrective action procedures; amending s. 945.6032, F.S.; requiring review of amendments to the quality management program; creating s. 945.6034, F.S.; providing procedure for adopting, and responsibility for complying with, minimum health care standards for inmates; amending s. 945.6035, F.S.; providing dispute resolution and appeals procedure; creating s. 945.6036, F.S.; providing for enforcement of dispute resolution decisions; amending s. 944.023, F.S.; revising definition of "lawful capacity"; providing standards for design capacity and maximum capacity; requiring the correctional master plan to include habitability and inventory criteria; amending ss. 944.096 and 944.598, F.S., to conform; providing an effective date.

—a companion measure, was substituted for **CS for SB 2000** and by two-thirds vote read the second time by title. On motion by Senator Dantzler, by two-thirds vote **HB 2165** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36      Nays—None

## RECONSIDERATION

On motion by Senator Jenne, the Senate reconsidered the vote by which—

**CS for SB 2390**—A bill to be entitled An act relating to group health insurance; creating s. 627.6699, F.S.; creating the "Employee Health Care Access Act"; providing purpose and intent; providing definitions; providing for application; providing for availability of coverage; providing procedures for electing to become a risk-assuming carrier; providing for a standard health benefit plan and a basic health benefit plan to be offered to all small employers; restricting the use of exclusions for preexisting conditions; establishing a health reinsurance program for small employers; providing for assessment of small employer carriers under the program; providing standards for marketing health care plans; providing for applicability of other state laws; authorizing the Department of Insurance to adopt rules for implementing and administering the act; requiring small employers to file with the department certain premium information relating to a certain time period; providing severability; providing an effective date.

—passed as amended this day.

On motion by Senator Jenne, by two-thirds vote the Senate reconsidered the vote by which **CS for SB 2390** was read the third time.

On motion by Senator Jenne, the Senate reconsidered the vote by which **Amendment 1** as amended was adopted.

On motion by Senator Jenne, the Senate reconsidered the vote by which **Amendment 1E** was adopted. **Amendment 1E** was withdrawn.

**Amendment 1** as amended was adopted.

On motion by Senator Jenne, by two-thirds vote **CS for SB 2390** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37      Nays—None

**SB 1644**—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; providing for the confidentiality of certain personal customer information in records of certain utilities; providing for future review and repeal; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

**Amendment 1 (with Title Amendment)**—Strike everything after the enacting clause and insert:

Section 1. Paragraph (bb) is added to subsection (3) of section 119.07, Florida Statutes, to read:

119.07 Inspection and examination of records; exemptions.—

(3)

(bb) *Information held by electric, water, wastewater, natural gas, cable television, and community antenna service utilities owned by a municipality, county, or other agency, which information would identify a customer of such utility if the information were released, may be exempt from the provisions of subsection (1) if:*

1. *The customer states in writing that, to the best of the customer's knowledge, the information is not readily available from another source; and*

2. *The customer requests in writing that the utility maintain as exempt from subsection (1) personal information about the customer which, if released, would identify the customer.*

*The exemption in this paragraph does not apply to any utility service for which an agency is billed or pays. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to confidentiality of certain public utility records; amending s. 119.07, F.S.; providing an exemption from public records requirements for information which, if released, would identify an individual customer; providing limitations; providing for future review and repeal; providing an effective date.

On motion by Senator Kirkpatrick, by two-thirds vote **SB 1644** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35      Nays—None

**SCR 1826**—A concurrent resolution reconfirming the appointment of Charles L. Lester to the office of auditor as Auditor General.

WHEREAS, Section 2, Article III, State Constitution, as revised and amended in 1968, provides that the Legislature shall appoint an auditor to serve at its pleasure, and

WHEREAS, by the enactment of chapter 69-82, Laws of Florida, the Legislature exercised that power of appointment by designating the Auditor General chosen pursuant to section 11.42, Florida Statutes, as the constitutional auditor mentioned in Section 2, Article III of the State Constitution, and again exercised that power of appointment by the adoption of chapter 85-59, Laws of Florida, by virtue of which sections 11.41 and 11.42, Florida Statutes, were reenacted, and

WHEREAS, section 11.42, Florida Statutes, requires the Legislative Auditing Committee to review the performance of Charles L. Lester and report to the Legislature by December 31, 1991, as to whether he should continue to serve as Auditor General, and

WHEREAS, the Legislative Auditing Committee recommends to the Legislature that Charles L. Lester continue to serve in office as Auditor General, NOW, THEREFORE,

*Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:*

That Charles L. Lester is hereby reappointed and reconfirmed to the office of auditor as Auditor General under the Constitution and statutes of the State of Florida.

—was read the second time in full. On motion by Senator Kirkpatrick, **SCR 1826** was adopted and certified to the House. The vote on adoption was:

Yeas—38      Nays—None

**CS for SB 1068**—A bill to be entitled An act relating to sexual harassment; amending s. 760.02, F.S.; defining "sexual harassment"; creating s. 760.07, F.S.; stating policy; providing an effective date.

—was read the second time by title. On motion by Senator Davis, by two-thirds vote **CS for SB 1068** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

**CS for SB 2278**—A bill to be entitled An act relating to contracting; amending ss. 489.103 and 489.503, F.S.; eliminating from provisions of law regulating construction contracting and electrical and alarm system contracting an exemption for certain authorized employees of school boards, the Board of Regents, and community colleges; providing an exception; providing an effective date.

—was read the second time by title.

Two amendments were adopted to **CS for SB 2278** to conform the bill to **HB 1055**.

Pending further consideration of **CS for SB 2278** as amended, on motion by Senator Casas, by two-thirds vote—

**HB 1055**—A bill to be entitled An act relating to construction contracting; amending s. 489.105, F.S.; redefining the term "contractor" to include "specialty contractor"; revising the definition of "residential contractor"; amending s. 489.117, F.S.; providing additional requirements with respect to registration of certain persons; amending s. 489.119, F.S.; prohibiting certain persons registered or certified who have had their license revoked from being employed in a managerial or supervisory capacity in certain business organizations; creating s. 489.120, F.S.; providing for an automated information system; amending s. 489.127, F.S.; providing that certain penalties shall be retained locally; authorizing local building departments to collect certain outstanding fines against registered or certified contractors; amending s. 489.131, F.S.; revising language with respect to applicability; providing for disciplinary proceedings against local contractors by local governments; providing for a fine; amending ss. 489.103 and 489.503, F.S.; eliminating from provisions of law regulating construction contracting and electrical and alarm system contracting an exemption for certain authorized employees of school boards, the Board of Regents, and community colleges; providing an exception; providing effective dates.

—a companion measure, was substituted for **CS for SB 2278** and by two-thirds vote read the second time by title. On motion by Senator Casas, by two-thirds vote **HB 1055** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37      Nays—None

**CS for SB 1064**—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption for works of art sold to or used by nonprofit libraries, art galleries, museums, or other educational institutions; providing an exemption for such property purchased or imported for the purpose of being loaned to any such institution or organization located in this state; providing for terms of loan agreements; providing applicability; providing an effective date.

—was read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for SB 1064** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36      Nays—None

## REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special and Continuing Order Calendar for Tuesday, March 9, and Wednesday March 10, 1992: CS for SB 610, SB 972, CS for SB 2334, SB 348, SB 2160, CS for SB 2390, SB 332, SB 100, SM 2464, CS for HB 1415, HB 2269, SB 1920, SB 1922, CS for SM 8, SJR 2066, CS for SB 378, CS for SR 286, SB 80, SB 82, CS for SB 582, SB 1008, SB 1278, SB 1374, CS for CS for SB 1520, SJR 152, CS for SB 1900, CS for SB 776, SB 938, SB 1674, SJR 922, CS for SB 1974, CS for SB 2108, CS for SB 2000, CS for SB 1578, CS for SB 2114, CS for SB 1524, SB 1644, SB 1826, CS for SB 1068, CS for SB 2278, CS for SB 1064, CS for CS for SB 1134, CS for SB 1000, CS for SJR's 18 and 20, SB 344, SB 94, SB 1370, SB 1458, CS for SB 1392, SB 1902, CS for SB 1976, CS for SB 1648, CS for SB 434, CS for SB 1484, SB 2042

Respectfully submitted,  
Pat Thomas, Chairman

The Committee on Governmental Operations recommends the following pass: SJR 1776

**The bill was referred to the Committee on Finance, Taxation and Claims under the original reference.**

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: CS for SB 620, CS for SB 948, CS for SB 1624, SB 1656, CS for SB 2288

The Committee on Governmental Operations recommends committee substitutes for the following: SB 1058, SB 2322

**The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.**

The Committee on Governmental Operations recommends a committee substitute for the following: CS for SB's 2186 and 2384

**The bills with committee substitute attached were referred to the Committee on Professional Regulation under the original reference.**

The Committee on Appropriations recommends committee substitutes for the following: CS for CS for SB's 12, 508 and 1310, CS for SB 78, SB 320, CS for SB 598, CS for CS for SB 832, SB 990, CS for SB 1162

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: SB 596, CS for SB 936, SB 1564, CS for SB 1774

**The bills with committee substitutes attached contained in the foregoing reports were placed on the calendar.**

## REQUESTS FOR EXTENSION OF TIME

March 6, 1992

The Committee on Agriculture requests an extension of 15 days for consideration of the following: Senate Bills 538, 638, 892, 2074; House Bills 729, 883

The Committee on Appropriations requests an extension of 15 days for consideration of the following: Senate Bills 6, 34, 106, 110, 114, 118, 142, 146, 156, 182, 220, 224, 242, 248, 260, 266, 272, 284, 300, 334, 368, 382, 390, 392, 394, 398, 406, 432, 436, 442, 450, 458, 462, 472, 492, 504, 518, 524, 556, 564, 566, 578, 618, 624, 656, 688, 690, 696, 704, 714, 748, 766, 824, 840, 860, 888, 918, 924, 928, 946, 952, 956, 958, 962, 964, 966, 970, 974, 994, 1018, 1024, 1048, 1088, 1106, 1110, 1136, 1156, 1178, 1224, 1240, 1256, 1258, 1262, 1290, 1300, 1302, 1304, 1350, 1352, 1430, 1456, 1486, 1502, 1528, 1534, 1540, 1588, 1592, 1636, 1660, 1696, 1698, 1710, 1716, 1726, 1752, 1754, 1756, 1758, 1760, 1768, 1804, 1812, 1838, 1846, 1852, 1862, 1870, 1884, 1890, 1892, 1908, 1912, 1924, 1950, 1962, 1992, 1994, 1996, 1998, 2010, 2014, 2040, 2060, 2100, 2112, 2122, 2124, 2162, 2176, 2184, 2192, 2216, 2218, 2250, 2254, 2264, 2266, 2270, 2306, 2318, 2326, 2332, 2356, 2388, 2412; House Bill 1977

The Committee on Commerce requests an extension of 15 days for consideration of the following: Senate Bills 30, 44, 62, 92, 138, 140, 150, 176, 180, 186, 214, 226, 290, 304, 340, 346, 350, 388, 430, 534, 552, 574, 622, 646, 702, 708, 728, 740, 784, 790, 850, 866, 912, 944, 978, 1036, 1052, 1074, 1166, 1246, 1318, 1332, 1340, 1402, 1416, 1428, 1442, 1460, 1462, 1464, 1466, 1482, 1494, 1530, 1552, 1554, 1570, 1616, 1664, 1678, 1682, 1744, 1810,

1814, 1822, 1832, 1844, 1904, 1906, 1910, 1968, 1980, 1984, 2016, 2024, 2028, 2054, 2058, 2062, 2080, 2086, 2092, 2098, 2116, 2132, 2168, 2284, 2320, 2324, 2354, 2392, 2396, 2406; House Bills 465, 589, 929, 1505, 2365

The Committee on Community Affairs requests an extension of 15 days for consideration of the following: Senate Bills 328, 360, 410, 460, 490, 560, 632, 830, 854, 950, 982, 1012, 1054, 1126, 1176, 1194, 1308, 1336, 1472, 1518, 1620, 1734, 1748, 1750, 1898, 1918, 1936, 1938, 1966, 2084, 2134, 2196, 2272, 2292, 2302, 2372, 2422; House Bills 723, 1437

The Committee on Corrections, Probation and Parole requests an extension of 15 days for consideration of the following: Senate Bills 126, 514, 562, 796, 1522; House Bills 151, 2163, 2169

The Committee on Criminal Justice requests an extension of 15 days for consideration of the following: Senate Bills 42, 46, 168, 172, 198, 246, 466, 780, 856, 872, 1028, 1030, 1072, 1160, 1228, 1364, 1408, 1424, 1510, 1576, 1666, 1722, 1728, 1830, 1948, 2138, 2154, 2298, 2304; House Bills 115, 309, 1557, 2239

The Committee on Education requests an extension of 15 days for consideration of the following: Senate Bills 308, 354, 358, 440, 468, 502, 558, 576, 682, 710, 752, 770, 802, 906, 934, 998, 1032, 1092, 1122, 1242, 1254, 1348, 1436, 1446, 1514, 1556, 1566, 1618, 1658, 1742, 1834, 1848, 1858, 1860, 2156, 2234, 2286, 2290, 2340; House Bill 1233

The Committee on Executive Business, Ethics and Elections requests an extension of 15 days for consideration of the following: Senate Bills 54, 98, 188, 238, 292, 844, 1084, 1090, 1184, 1230, 1888, 2220, 2222, 2300; House Bill 745

The Committee on Finance, Taxation and Claims requests an extension of 15 days for consideration of the following: Senate Bills 74, 164, 370, 416, 420, 422, 426, 478, 498, 506, 644, 870, 908, 1004, 1116, 1124, 1130, 1210, 1222, 1292, 1344, 1680, 1840, 1952, 1990, 2002, 2044, 2046, 2048, 2052, 2094, 2228, 2230, 2232, 2274, 2312, 2358

The Committee on Governmental Operations requests an extension of 15 days for consideration of the following: Senate Bills 250, 296, 438, 580, 726, 942, 980, 988, 1708, 1794, 1960, 1986, 2034, 2076, 2348; House Bill 973

The Committee on Health and Rehabilitative Services requests an extension of 15 days for consideration of the following: Senate Bills 200, 212, 264, 278, 356, 412, 488, 572, 612, 662, 712, 736, 794, 804, 898, 976, 986, 1120, 1366, 1378, 1426, 1440, 1532, 1548, 1558, 1574, 1652, 1820, 1972, 1978, 2008, 2036, 2102, 2126, 2128, 2130, 2136, 2244, 2248, 2330, 2368, 2370; House Bills 881, 1075, 2399

The Committee on Health and Rehabilitative Services Subcommittee on Health Care requests an extension of 15 days for consideration of the following: Senate Bills 122, 2070

The Committee on International Trade, Economic Development and Tourism requests an extension of 15 days for consideration of the following: Senate Bills 512, 1956, 2078

The Committee on Judiciary requests an extension of 15 days for consideration of the following: Senate Bills 16, 70, 96, 216, 270, 276, 302, 318, 326, 402, 446, 470, 484, 486, 520, 636, 742, 772, 1042, 1050, 1144, 1232, 1236, 1272, 1330, 1338, 1412, 1448, 1450, 1452, 1454, 1480, 1492, 1550, 1702, 1718, 1764, 1782, 1836, 1866, 1946, 1964, 2038, 2118, 2166, 2170, 2188, 2242, 2252, 2280, 2346; House Bill 129

The Committee on Natural Resources and Conservation requests an extension of 15 days for consideration of the following: Senate Bills 136, 546, 660, 672, 788, 792, 828, 852, 1112, 1208, 1270, 1438, 1526, 1634, 1642, 1796, 1842, 1854, 1872, 1874, 1876, 1878, 2172, 2194, 2260, 2316, 2338, 2512; House Bill 205

The Committee on Personnel, Retirement and Collective Bargaining requests an extension of 15 days for consideration of the following: Senate Bills 192, 604, 628, 630, 862, 884, 1226, 1276, 1306, 1584, 1780, 1940, 2004, 2198; House Bills 2339, 2361

The Committee on Professional Regulation requests an extension of 15 days for consideration of the following: Senate Bills 614, 640, 1086, 1322, 1474, 1942, 2012, 2032, 2090, 2150, 2180, 2214, 2380; House Bills 63, 517, 793, 2267

The Committee on Reapportionment requests an extension of 15 days for consideration of the following: Senate Bills 1204, 1380, 1386, 1388, 1662, 1668, 1886, 2140, 2496, 2500, 2502

The Committee on Reapportionment Congressional Subcommittee requests an extension of 15 days for consideration of the following: Senate Bill 1382

The Committee on Reapportionment Legislative Subcommittee requests an extension of 15 days for consideration of the following: Senate Bill 2504

The Committee on Rules and Calendar requests an extension of 15 days for consideration of the following: Senate Bills 24, 668, 692, 738, 786, 800, 834, 880, 910, 1022, 1128, 1138, 1328, 1410, 1468, 1512, 1798, 1914, 1916, 2050, 2064, 2082, 2088, 2190, 2204, 2210, 2258, 2342, 2344, 2394, 2404, 2408, 2410, 2428, 2436, 2440, 2450, 2456, 2468; House Bills 2113, 2295, 2353

The Special Master on Claims requests an extension of 15 days for consideration of the following: Senate Bills 554, 902, 1132, 1140, 1170, 1376, 1640, 1672, 1856, 2208, 2328

The Committee on Transportation requests an extension of 15 days for consideration of the following: Senate Bills 36, 68, 400, 424, 530, 744, 818, 878, 1002, 1020, 1100, 1192, 1196, 1562, 1982, 2294; House Bills 565, 1355

## COMMITTEE SUBSTITUTES

### FIRST READING

By the Committees on Appropriations; Finance, Taxation and Claims; Community Affairs; and Senators Kirkpatrick, Forman, Davis, Wexler, Grant, Beard, Gordon and Kurth—

**CS for CS for CS for SB 12, SB 508 and SB 1310**—A bill to be entitled An act relating to affordable housing; amending s. 201.02, F.S.; increasing the excise tax on deeds and other instruments relating to real property; amending s. 201.15, F.S.; revising the distribution of excise taxes on documents; allocating a portion of the excise tax on documents to the State Housing Trust Fund and to the Local Government Housing Trust Fund; providing for the use of moneys deposited in the State Housing Trust Fund and the Local Government Housing Trust Fund; amending s. 240.5111, F.S.; requiring the Multidisciplinary Center for Affordable Housing to establish a research agenda in cooperation with the Department of Community Affairs; amending s. 420.0001, F.S.; providing a short title; amending s. 420.0002, F.S.; providing legislative findings; amending s. 420.0005, F.S.; providing that funds from the State Housing Trust Fund may be used to administer housing programs; amending s. 420.306, F.S.; revising definitions of the Housing Predevelopment and Elderly Homeowner Rehabilitation Assistance Act; amending s. 420.307, F.S.; revising provisions relating to administration of a trust fund and providing for availability of funds; amending s. 420.308, F.S.; revising provisions relating to authorized loans and grants and activities eligible for support; amending s. 420.309, F.S.; revising application procedures for receipt of funds; requiring notice and establishment of a review committee and scoring system; amending s. 420.31, F.S.; revising provisions relating to rules and annual reports; amending s. 420.32, F.S.; revising provisions relating to default on a loan; providing for deposit of funds; creating s. 420.36, F.S.; creating the Low-income Emergency Home Repair Program; providing eligibility, allowable expenses, fund distribution, and departmental powers; creating s. 420.37, F.S.; providing additional powers of the Florida Housing Finance Agency; amending s. 420.503, F.S.; providing additional definitions under the Florida Housing Finance Agency Act; amending s. 420.507, F.S.; revising powers of the agency with respect to loans under the Florida Homeownership Assistance Program and the State Apartment Incentive Loan Program; amending s. 420.5087, F.S., relating to the State Apartment Incentive Loan Program; amending provisions relating to eligibility for loans; amending provisions relating to allocation of loans; transferring certain duties of the Department of Community Affairs to the Florida Housing Finance Agency; amending s. 420.5088, F.S.; amending provisions relating to the Florida Homeownership Assistance Program; amending requirements with respect to mortgage loans; providing requirements with respect to construction loans; providing for allocation of program funds; providing for transfer of moneys to the Florida Homeownership Assistance Trust Fund; creating s. 420.5089, F.S.; creating the HOME Partnership Program and establishing a trust fund; providing for loans based on competitive selection; providing for pilot programs; providing for eligible activities; providing for a review committee; providing for approval and determination of loans; providing agency powers; providing for the deposit of funds; creating s. 420.5091, F.S.; providing for rules to implement the HOPE Program; pro-

viding for the acquisition of property; creating s. 420.5092, F.S.; creating the Florida Affordable Housing Guarantee Program and authorizing agency action; providing purposes; providing definitions; providing for funding; providing for establishing rates and fees for guarantees; providing for the issuance of revenue bonds; providing a specified maximum amount of such bonds; providing for an annual audit; providing for a feasibility study; amending s. 420.601, F.S.; providing a short title; amending s. 420.6015, F.S.; providing legislative findings; amending s. 420.606, F.S.; requiring the Department of Community Affairs to provide technical support for the implementation of the State Housing Initiatives Partnership Program; amending s. 420.6075, F.S.; requiring the Department of Community Affairs to participate in establishing an annual research agenda for the Multidisciplinary Center for Affordable Housing; amending s. 420.609, F.S.; requiring the Affordable Housing Study Commission to make recommendations regarding an annual research agenda for the Multidisciplinary Center for Affordable Housing; creating part IX of ch. 420, F.S., consisting of ss. 420.907, 420.9071, 420.9072, 420.9075, 420.9076, 420.9078, 420.9079, F.S.; providing a short title; providing definitions relating to affordable housing; establishing the State Housing Initiatives Partnership Program; providing legislative findings and intent; providing for administration of the program and for rules; providing approval procedures and requirements; providing for the distribution and use of funds; providing criteria for the issuance of revenue bonds by local governments; establishing criteria and administrative procedures for local housing assistance programs adopted by local governments; requiring a report; requiring reporting of violations to the Office of the Governor and the Auditor General; requiring adoption of affordable housing incentive plans; providing for affordable housing advisory committees; providing for state administration of remaining local housing distribution funds; providing for notice of the availability of funds; creating the Local Government Housing Trust Fund; providing for the distribution of moneys from the trust fund; providing for transfer of program functions of the Housing Predevelopment Trust Fund to the Florida Housing Finance Agency; providing that this act does not affect chs. 83-220, 84-270, 86-152, 89-252, Laws of Florida; amending s. 1, ch. 83-220, Laws of Florida, as amended; providing an appropriation; providing for the allocation of funds in the State Housing Trust Fund; repealing ss. 420.603, 420.604, 420.605, F.S., relating to the Florida Affordable Housing Trust Fund, the Florida Affordable Housing Demonstration Program, and the Affordable Housing Loan Program; allocating funds from the State Housing Trust Fund to housing programs; repealing ss. 420.801, 420.802, 420.803, 420.804, 420.805, 420.806, 420.808, 420.809, 420.810, 420.811, 420.812, 420.813, F.S., relating to the Pocket of Poverty Programs; repealing ss. 420.901, 420.902, 420.903, 420.904, 420.905, 420.906, F.S., the Maintenance of Housing for the Elderly Act of 1988; providing a severability clause; providing effective dates.

By the Committees on Appropriations; and Health and Rehabilitative Services—

**CS for CS for SB 78**—A bill to be entitled An act relating to pest control; transferring the Office of Entomology Services of the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services; providing for location of the Office of Entomology Services; transferring and continuing existing rules and pending judicial and administrative proceedings; amending s. 482.011, F.S.; retitling the Pest Control Act; amending s. 482.021, F.S.; providing definitions; amending s. 482.032, F.S.; providing for enforcement of pest-control laws by the Department of Agriculture and Consumer Services; amending s. 482.051, F.S.; authorizing the department to adopt rules; amending s. 482.061, F.S.; providing for inspectors; amending s. 482.071, F.S.; providing for licenses; prescribing license fees; prohibiting issuing a new license to a licensee that sells its business or goes out of business in certain circumstances; amending and renumbering s. 482.081, F.S.; providing conditions precedent to issuing a pest control occupational license; amending s. 482.091, F.S.; providing for employee identification cards; amending s. 482.111, F.S.; providing for pest control operator's certificates; amending s. 482.121, F.S.; prohibiting misuse of certificates; amending s. 482.132, F.S.; revising qualifications for examination and certification; amending s. 482.141, F.S.; revising guidelines with respect to examinations; amending s. 482.151, F.S.; providing for special identification card for persons who perform fumigation; amending s. 482.152, F.S.; revising provisions relating to duties of certified operators; creating ss. 482.155, 482.156, F.S.; providing for limited certification of certain persons; amending s. 482.161, F.S.; providing disciplinary grounds; providing disciplinary actions; increasing maximum penalties; amending s. 482.165, F.S.; providing remedies for unlicensed practice; repealing s. 482.182, F.S., relating to offenses committed before 1965; creating s. 482.1821,



F.S.; providing that it is unlawful to close a pest control business and open up a new pest control business under certain circumstances; amending s. 482.183, F.S.; providing a limit on actions; amending s. 482.191, F.S.; providing penalties; amending and renumbering s. 482.201, F.S.; providing for liens for furnishing pest control; amending s. 482.211, F.S.; providing exemptions; amending s. 482.226, F.S.; revising provisions with respect to wood-destroying organism inspections and inspection reports; revising financial responsibility requirements; amending s. 482.2265, F.S.; providing for consumer information and notice of pesticide application; providing for a registry of pesticide-sensitive persons; amending s. 482.227, F.S.; revising provisions relating to warranties and guarantees; amending s. 482.231, F.S.; providing for use of fogging machines; creating s. 482.2401, F.S.; providing for disposition and use of revenues from fees and fines; amending s. 482.241, F.S.; providing for liberal interpretation; repealing s. 482.25, F.S., relating to application of pest control law; repealing s. 15, ch. 82-229, s. 18, ch. 89-180, and s. 2, ch. 89-198, Laws of Florida, which provide for termination of ss. 482.011-482.25, F.S., effective October 1, 1992; providing an appropriation; providing an effective date.

By the Committee on Appropriations and Senator Yancey—

**CS for SB 320**—A bill to be entitled An act relating to funding for criminal proceedings; amending ss. 27.38, 27.60, F.S.; providing that a specified percentage of unexpended funds may be carried forward each year by state attorneys and public defenders; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senators Crotty, Malchon, Jennings, Jenne, Grant and Forman—

**CS for SB 596**—A bill to be entitled An act relating to local government; amending s. 170.01, F.S., which provides an alternative method for municipalities to make improvements and levy special assessments against property benefited; providing additional projects which may be funded by that method; authorizing all municipalities to levy special assessments for stabilizing and improving business and historic districts under specified circumstances; providing that bond proceeds may not be used for operation of such districts; amending s. 170.11, F.S.; revising provisions relating to sources from which bonds are payable; authorizing issuance of refunding bonds; amending s. 170.17, F.S.; revising provisions relating to payment of interest on bonds; providing an effective date.

By the Committees on Appropriations; and Health and Rehabilitative Services—

**CS for CS for SB 598**—A bill to be entitled An act relating to health care cost containment; amending s. 407.001, F.S.; revising the short title of ch. 407, F.S.; creating s. 407.0015, F.S.; declaring legislative intent; amending s. 407.002, F.S.; providing definitions; amending s. 407.01, F.S.; providing for the membership and organization of the Health Care Cost Containment Board; creating s. 407.021, F.S.; prescribing duties of the board; amending s. 407.03, F.S.; prescribing powers of the board; amending s. 407.04, F.S.; providing for assessments against health care facilities; providing budgetary and financial requirements for the board; creating s. 407.051, F.S.; providing for data collection; providing for confidentiality of the identity of health care providers providing certain data; creating s. 407.055, F.S.; providing for research, analyses, studies, and reports; creating s. 407.058, F.S.; providing for public education and for dissemination of health care information; creating s. 407.065, F.S.; providing for development of medical practice parameters; creating s. 407.068, F.S.; providing duties of the board with respect to cost containment strategies; creating s. 407.071, F.S.; providing duties of the board with respect to consumer complaints; creating s. 407.075, F.S.; providing for review of hospital budgets and regulation of hospital gross revenue; transferring, renumbering, and amending s. 407.52, F.S.; prescribing policy with respect to philanthropic support for health care; transferring, renumbering, and amending s. 407.13, F.S.; providing for prospective payment arrangements; transferring, renumbering, and amending s. 407.12, F.S.; providing for quality assurance monitoring; amending s. 407.08, F.S.; providing for recommendations and reports by the board; transferring, renumbering, and amending s. 407.06, F.S.; providing for inspections and audits; providing penalties for violations of law or board rule; requiring the board to submit a report; transferring, renumbering, and amending s. 407.53, F.S.; providing that a health care facility that alleges that a factual determination by the board is incorrect has the burden of proving that allegation; transferring, renumbering, and amending s. 407.54, F.S.; prescribing duties of the Public Counsel with respect to proceedings of the board; transferring, renumbering, and amending s. 407.035, F.S.; providing effect of ch. 407, F.S., on current rules; amending ss. 240.4075,

381.698, 383.336, 395.01465, 395.1015, 395.60, 395.61, 395.63, 409.9113, 409.9114, 440.13, 766.112, 766.314, 768.81, F.S.; conforming cross-references; requiring the Health Care Cost Containment Board to conduct a study; requiring the Health Care Cost Containment Board to develop a methodology to establish a standardized gross revenue per adjusted admission; requiring the Health Care Cost Containment Board to develop a case mix measure for comprehensive inpatient rehabilitation hospitals; requiring the Florida Health Care Purchasing Cooperative to develop a model health care benefit package; amending s. 20.19, F.S.; retitling the position of Assistant Secretary for Regulation and Health Facilities and deleting certain responsibilities of the position; amending and renumbering s. 381.0401, F.S.; transferring responsibilities for the State Center for Health Statistics from the Department of Health and Rehabilitative Services to the Health Care Cost Containment Board; amending and renumbering ss. 381.701, 381.702, 381.703, 381.704, 381.705, 381.706, 381.707, 381.708, 381.709, 381.710, 381.711, 381.712, 381.713, 381.714, 381.715, 381.7155, F.S.; transferring certain duties of the Department of Health and Rehabilitative Services under the Health Facility and Services Development Act to the Health Care Cost Containment Board; providing for continued effect of extant certificates of need; amending ss. 154.245, 159.27, 186.003, 186.503, 189.415, 383.216, 395.003, 395.005, 395.011, 395.01465, 395.104, 400.071, 400.471, 400.603, 400.606, 400.702, 651.118, F.S.; conforming cross-references and references to the Department of Health and Rehabilitative Services; specifying licensure requirements; repealing ss. 395.034(10), 407.003, 407.025, 407.09, 407.30, 407.32, 407.33, 407.34, 407.70, 407.02, 407.05, 407.07, 407.10, 407.11, 407.23, 407.31, 407.50, 407.51, F.S., relating to health care cost containment; repealing s. 34, ch. 88-394, Laws of Florida, which provides for the repeal of ss. 407.001, 407.002, 407.01, 407.03, 407.035, 407.04, 407.06, 407.08, 407.12, 407.13, 407.52, 407.53, 407.54, F.S.; repealing s. 1(4), ch. 90-192, Laws of Florida, which provides for the repeal of ss. 394.4784(4), 394.4788(2), (3), F.S.; repealing s. 1(3), ch. 89-296, Laws of Florida, which provides for the repeal of s. 395.63, F.S.; providing appropriations; creating a rate of return work group; providing an effective date.

By the Committees on Finance, Taxation and Claims; and Health and Rehabilitative Services—

**CS for CS for SB 620**—A bill to be entitled An act relating to health care; amending s. 395.001, F.S.; revising legislative intent; deleting references to ambulatory surgical centers; amending s. 395.002, F.S.; revising definitions for purposes of ss. 395.001-395.0385, F.S.; amending s. 395.003, F.S.; revising cross-references; deleting a requirement that the Department of Health and Rehabilitative Services license Medicare-certified ambulatory surgical centers; providing additional information to be specified on hospital licenses; revising the circumstances under which a hospital may operate at more than its licensed capacity; amending s. 395.004, F.S.; revising licensure requirements; providing for provisional licenses; providing for deposit of license fees into the Planning and Evaluation Trust Fund; amending s. 395.006, F.S.; revising circumstances under which the department may accept inspections by accrediting organizations in lieu of its own inspections for licensure; deleting the exemption from public records law provided for inspection reports; amending s. 395.008, F.S.; deleting certain limitations on the release of hospital inspection reports; transferring and amending s. 395.007, F.S.; increasing the time for department review of hospital construction plans; transferring and amending s. 395.041, F.S.; revising requirements for hospital risk management programs; revising reporting requirements; increasing the penalty for violating reporting requirements; deleting a requirement that the department conduct certain reviews of risk management programs; deleting requirement for department to distribute information bulletins; requiring the department to publish a summary of hospital incident reports; amending s. 395.011, F.S.; prohibiting denial of staff membership or professional clinical privileges to psychologists solely because of licensure under chapter 490, F.S.; prohibiting hospitals from denying clinical privileges to specified practitioners solely because they do not participate in the Florida Birth-Related Neurological Injury Compensation Plan; deleting requirement that hospitals develop rules and procedures for consideration of psychologist applications; adding psychologist to the list of professionals a hospital's medical staff may consider for staff membership; amending s. 395.0115, F.S.; revising requirements pertaining to peer review and disciplinary actions by hospitals; amending s. 395.014, F.S.; conforming terminology to changes made by the act; amending s. 395.017, F.S.; deleting provisions pertaining to the release of patient records; creating s. 395.0171, F.S.; requiring hospital emergency departments to be capable of specified communications with life support vehicles and aircraft and municipal aid channels; transferring and amending s. 395.0141, F.S., relating to inventories of hospital emergency departments; deleting



a reporting requirement; transferring and amending s. 395.0142, F.S.; revising legislative intent; revising definitions; providing additional requirements for hospitals that offer emergency services; providing requirements for transferring patients between hospitals; requiring hospitals to submit transfer plans to the department; providing requirements for obtaining financial information from emergency admissions; revising requirements for maintaining certain records; providing additional penalties; requiring the department to report certain incidents to the Department of Professional Regulation; transferring and amending ss. 395.0146, 395.0147, 395.0201, F.S.; correcting cross-references; revising notification requirements following contact with an infectious patient; amending s. 395.0205, F.S.; requiring hospitals to adopt policies for reporting child abuse and assisting in investigations; transferring s. 395.016, F.S., relating to patient records; transferring and amending s. 395.009, F.S.; conforming terminology; transferring and amending s. 395.0101, F.S.; revising waste disposal requirements for hospitals; transferring and amending s. 395.0175, F.S.; revising requirements pertaining to complaint investigations by the department; transferring and amending s. 395.018, F.S.; increasing certain administrative fines; providing additional penalties; transferring and amending s. 395.005, F.S.; providing additional rulemaking authority for the department; creating s. 395.111, F.S.; providing legislative intent; creating s. 395.112, F.S.; providing definitions for purposes of ss. 395.111-395.127; creating s. 395.113, F.S.; requiring ambulatory surgical centers to be licensed by the department; providing licensure application requirements; providing for provisional licenses; providing for license expiration; creating s. 395.114, F.S.; providing license fees; providing for deposit of such fees in the Planning and Evaluation Trust Fund; creating s. 395.115, F.S.; authorizing the department to inspect and investigate ambulatory surgical centers; authorizing the department to accept licensure inspections by accrediting organizations; providing inspection fees; creating s. 395.116, F.S.; providing requirements for maintaining inspection reports and making them available; creating s. 395.117, F.S.; providing for construction inspections of ambulatory surgical centers; providing for inspection fees; providing for deposit of the fees in the Planning and Evaluation Trust Fund; creating s. 395.118, F.S.; requiring ambulatory surgical centers to establish risk management programs; providing program requirements; providing reporting requirements; providing for penalties; exempting certain records from public disclosure requirements; providing for future legislative review of these exemptions pursuant to the Open Government Sunset Review Act; requiring the department to report certain incidents to the Department of Professional Regulation; creating s. 395.119, F.S.; providing requirements for ambulatory surgical centers in considering applications for staff membership and clinical privileges; exempting certain disciplinary board records from discovery in civil actions; creating s. 395.121, F.S.; requiring ambulatory surgical centers to provide for peer review and disciplinary actions; exempting certain peer review records from public disclosure requirements; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; exempting certain peer review records from discovery in civil actions; creating s. 395.122, F.S.; requiring that chiropractors be given access to diagnostic reports; creating s. 395.123, F.S.; providing requirements for clinical laboratory tests and X rays accepted by ambulatory surgical centers; creating s. 395.124, F.S.; providing requirements for waste disposal; creating s. 395.125, F.S.; providing procedures and requirements for complaint investigations by the department; creating s. 395.126, F.S.; providing penalties; creating s. 395.127, F.S.; providing rulemaking authority; creating s. 395.212, F.S.; providing definitions; providing purpose; requiring medical facilities to observe specified patient rights standards; providing requirements for information disclosure to patients; creating s. 395.213, F.S.; providing requirements for the release of patient records; exempting certain patient records from public disclosure requirements; providing for future legislative review of these exemptions pursuant to the Open Government Sunset Review Act; transferring and amending s. 395.015, F.S.; revising requirements pertaining to patient billing; creating s. 395.217, F.S.; authorizing the department to investigate complaints against medical facilities; exempting certain investigation information from public disclosure requirements; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; creating s. 395.218, F.S.; providing rulemaking authority; transferring and amending s. 395.031, F.S.; revising definitions; amending the requirements for the local or regional trauma services system plan; providing for review of hospital trauma care plans by the department; transferring s. 395.032, F.S., relating to regional trauma planning; transferring and amending ss. 395.033, 395.0335, F.S.; conforming cross-references; deleting an obsolete provision; requiring the department to initiate selection of replacement trauma centers under certain

circumstances; providing for notice to, and recommendations by, local and regional trauma agencies; requiring confirmation of consistency with the local or regional plan; transferring and amending s. 395.034, F.S.; revising the payment methodology for provisional state-approved and state-approved trauma centers; transferring and amending ss. 395.0345, 395.035, F.S.; revising requirements for trauma registry data; conforming cross-references; deleting obsolete provisions; transferring and amending s. 395.036, F.S., relating to emergency medical service providers; providing for developing regional trauma protocols; providing that in a county where air ambulance service and an emergency medical service provider is available and with a population in excess of 1 million residents, trauma transport protocols may not require transport outside of the trauma service area unless a written mutual agreement permits otherwise; providing that transport of trauma patients shall be in accordance with department protocol when air ambulance service is not available and when no interagency transport agreement exists; transferring and amending s. 395.037, F.S.; conforming cross-references; transferring and amending s. 395.102, F.S.; revising definitions pertaining to the regulation of rural hospitals; transferring and amending ss. 395.01465, 395.103, 395.104, F.S.; requiring the department to adopt rules under which rural hospitals may designate inactive beds; providing requirements for emergency medical care; conforming cross-references; transferring and amending s. 395.101, 395.1015, 395.0185, F.S.; providing for payment of penalties and assessments upon transfer of ownership of a hospital; amending the definition of the term "gross revenue," as used in computing the annual assessment on health care entities, to provide for excluding out-of-state revenues; clarifying the exemption of blood banks and plasma centers from the definition of the term "health care entities"; conforming cross-references and conforming terminology; deleting obsolete provisions; transferring and amending s. 395.0172, F.S.; providing for the Department of Insurance rather than the Department of Health and Rehabilitative Services to provide for the registration and regulation of persons who perform utilization review services; repealing ss. 395.012, 395.013, 395.0143, 395.0144, 395.0165, F.S., relating to the prescription of laetrile; the prescription of DMSO; the provision of emergency medical services; and penalties for altering patient records; amending s. 394.463, F.S.; revising detention period for involuntary examination of certain patients; conforming cross-references to changes made by the act; amending ss. 119.07, 154.205, 196.012, 212.02, 320.0801, 322.0602, 381.004, 381.026, 381.702, 381.703, 381.706, 385.202, 390.011, 392.62, 394.4785, 394.4787, 394.4789, 396.172, 400.021, 401.425, 401.45, 401.48, 407.002, 407.50, 407.51, 409.906, 409.911, 409.918, 427.708, 440.13, 458.331, 459.015, 461.013, 468.302, 468.304, 468.505, 483.041, 483.285, 483.610, 626.941, 626.943, 627.351, 627.357, 627.6056, 627.6616, 627.912, 641.55, 743.064, 766.101, 766.105, 766.110, 766.208, 766.305, 766.314, 768.13, 817.234, 893.02, 945.601, F.S.; conforming cross-references to conform to changes made by the act; removing "home for the aged" from the list of institutions licensed under chapter 400, F.S., which qualify for exemption from ad valorem taxation; providing a definition of the term "ambulatory care center"; requiring those centers to register with the Department of Health and Rehabilitative Services; prohibiting doing business without a valid registration; requiring an applicant for registration to submit certain information; requiring the department to issue a registration certificate under certain conditions; requiring health care services to be provided by appropriate, licensed health care professionals; providing prohibitions; providing penalties; providing for temporary suspension of registration; providing for denial, suspension, or revocation of registration; revising and readopting provisions of ch. 395, F.S., notwithstanding repeals scheduled under the Regulatory Sunset Act; providing an effective date.

By the Committees on Appropriations, Governmental Operations, Agriculture and Senators Gardner and Souto—

**CS for CS for CS for SB 832**—A bill to be entitled An act relating to food and lodging; amending s. 381.006, F.S.; providing for a specified surcharge; specifying contents of the environmental health program; amending s. 381.0072, F.S.; revising duties of the Department of Health and Rehabilitative Services relating to food services regulated under chapter 500, F.S.; revising definitions; deleting reference to a contract between the Division of Hotels and Restaurants of the Department of Business Regulation and the Department of Health and Rehabilitative Services; providing for transfer of a portion of certain food service establishment licensing fees to the Department of Health and Rehabilitative Services; specifying use of funds; revising membership on the Food Services Standards Advisory Council; creating s. 381.00715, F.S.; providing a short title; providing legislative intent; providing definitions; providing permitting requirements for packaged ice plant operators and dealers; providing fees; providing operating standards; providing for enforcement

by the Department of Health and Rehabilitative Services; providing for penalties and an administrative fine; preempting to the state the regulation of packaged ice plants, packaged ice plant operators, and packaged ice dealers; creating s. 381.0079, F.S.; providing for a registry of mobile food dispensing vehicles; creating s. 381.00791, F.S.; providing for applicability of certain laws to food service establishments licensed under ch. 381, F.S.; amending s. 381.0061, F.S., relating to administrative fines, to conform; amending s. 500.03, F.S.; revising definitions; defining "convenience store," "food establishment," "food outlet," "food service establishment," "minor food outlet," and "retail food store"; amending s. 500.04, F.S.; expanding prohibited acts to include alteration, destruction, or removal of specified labeling information; amending s. 500.09, F.S.; expanding and clarifying provisions which require the Department of Agriculture and Consumer Services to adopt rules governing food products; authorizing certain exemptions from labeling requirements; amending s. 500.12, F.S.; requiring food permits; providing exemptions; providing an application fee; providing that the Department of Agriculture and Consumer Services shall be the exclusive permitting authority for all food outlets, retail food stores, food establishments, and minor food outlets; providing legislative intent; providing for rules on certification of food managers and inspectional personnel; creating s. 500.1465, F.S.; authorizing the department to inspect all entities permitted under chapter 500, F.S.; providing inspection requirements and procedures; providing additional positions within, and making appropriations to, the Department of Agriculture and Consumer Services to administer the act; providing for due consideration of personnel affected by the act; amending s. 500.146, F.S.; expanding the department's authority to adopt rules; revising provisions relative to analytical work; creating s. 500.165, F.S.; prohibiting carriers from transporting food items in certain vehicles or rail cars; providing for standards by rule; providing an administrative fine; providing a penalty; amending s. 500.167, F.S.; revising provisions which provide exemptions for carriers engaged in interstate commerce; amending ss. 502.091, 502.165, 502.191, F.S.; clarifying and updating references; amending s. 502.231, F.S.; revising penalty and injunction provisions; providing for administrative fines; providing for suspension or revocation of permit; providing applicability to milk and milk product producers and handlers; transferring, renumbering, and amending s. 509.036, F.S.; revising standards for persons who perform food service inspections; amending s. 583.09, F.S.; requiring food permits for egg dealers and poultry dealers; amending s. 583.022, F.S.; providing for the refrigeration of eggs for sale or processing; providing temperature requirements; amending s. 585.002, F.S.; requiring the department to establish a fee schedule for specified costs; amending s. 585.21, F.S.; revising provisions relating to the sale of biological products; amending s. 585.90, F.S., relating to inspection, stop-sale orders, condemnation, and destruction of animal products; creating s. 585.902, F.S.; providing causes for seizure and condemnation of animal products; creating s. 585.903, F.S.; providing procedures with respect to seizure of animal products; providing a penalty; providing for suspension or revocation of permit; providing a fine; creating s. 585.904, F.S.; providing for condemnation, sale, and release of seized animal products; amending s. 571.11, F.S.; conforming a cross-reference; amending s. 20.16, F.S.; redesignating the Division of Hotels and Restaurants of the Department of Business Regulation as the Division of Public Lodging; amending ss. 159.27, 215.20, 404.056, 509.013, 509.032, 509.035, 509.072, 509.091, 509.092, 509.101, 509.141, 509.142, 509.151, 509.162, 509.191, 509.211, 509.2112, 509.215, 509.221, 509.241, 509.242, 509.251, 509.261, 509.281, 509.291, F.S.; requiring certain public lodging establishments to be equipped with sprinkler systems; providing conforming language; amending s. 509.302, F.S.; providing conforming language; transferring and renumbering ss. 381.297, 509.213, 509.214, 509.232, 509.292, F.S.; providing conforming language; providing for a transfer of the statutory powers, duties, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Division of Hotels and Restaurants of the Department of Business Regulation which relate to public food service establishments to the Deputy Secretary of Health of the Department of Health and Rehabilitative Services; repealing s. 509.036, F.S.; providing for public food service inspector standardization; providing effective dates.

By the Committees on Finance, Taxation and Claims; and Transportation—

**CS for CS for SB 936**—A bill to be entitled An act relating to traffic infractions; amending s. 318.14, F.S.; providing for a reduction in civil penalty for electing to attend a driver improvement course; correcting a cross-reference; amending s. 318.1451, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to license and regulate driving schools; authorizing the department to test the effectiveness of such

schools; amending s. 322.291, F.S.; requiring attendance at an advanced driver improvement course for a person whose driver's license has been suspended or revoked for certain specified offenses; repealing s. 6, ch. 91-200, Laws of Florida, abrogating the repeal of ss. 318.14(9), 318.1451, 322.291, F.S.; providing an effective date.

By the Committees on Finance, Taxation and Claims; and Natural Resources and Conservation—

**CS for CS for SB 948**—A bill to be entitled An act relating to environmental resources; amending s. 259.101, F.S.; extending the repeal date for provisions relating to the distribution of certain Preservation 2000 bond proceeds; amending the criteria for determining project eligibility under the Florida Preservation 2000 Act; amending s. 201.02, F.S.; exempting certain real estate transactions involving a nonprofit organization from the excise tax on documents; requiring certain notice; amending s. 253.01, F.S.; providing requirements for state-owned lands in the Everglades Agricultural Area; amending s. 253.023, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to allocate Conservation and Recreation Lands Trust Fund moneys for certain public purposes; specifying the use of lands acquired pursuant to s. 253.023, F.S.; specifying user of the Conservation and Recreation Lands Trust Fund; requiring funds and personnel needed to manage lands purchased to be identified in the legislative budget request and providing for the transfer of funds from the Conservation and Recreation Lands Trust Fund for managing lands; providing for payment in lieu of taxes to certain counties for actual tax losses incurred as a result of land acquisitions under the Florida Preservation 2000 Program; amending s. 253.025, F.S.; removing appraisal requirements for purchases if the purchase price does not exceed \$100,000; requiring two appraisals for each parcel of land to be acquired when the value of the land exceeds \$500,000; authorizing the Division of State Lands to disclose appraisal information to public agencies or nonprofit organizations under certain conditions; amending requirements for the contents of the appraisal report; amending requirements relating to legal staff's reviewing offers; authorizing the Board of Trustees of the Internal Improvement Trust Fund to accept certain gifts and donations without formal evidence of marketability, or when the title is nonmarketable, in specified circumstances; amending s. 253.111, F.S.; removing requirements for notice to a board of county commissioners of conveyance of any lands within the Everglades Agricultural Area; amending s. 259.035, F.S.; requiring the Department of Natural Resources to provide staff support to the Land Acquisition Advisory Council; requiring the Department of Natural Resources to adopt rules regarding the Land Acquisition Advisory Council; requiring the council to rank acquisition projects in order of priority; requiring certain information to be provided for each acquisition project; requiring the council to develop and adopt proposals for certain acquisition projects; amending s. 259.04, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to develop a comprehensive statewide plan to conserve and protect certain lands; amending s. 259.07, F.S.; requiring the Land Acquisition Advisory Council to hold certain public meetings; amending s. 260.015, F.S.; providing requirements for acquisition of land; amending s. 375.031, F.S.; deleting the requirement that the seller disclose the annual tax assessment in certain land transactions; deleting the requirement that certain acquisition projects be subject to the selection procedures of s. 259.035, F.S.; amending s. 380.0666, F.S.; authorizing the land authority created by a county under s. 380.0663, F.S., to acquire and dispose of certain real and personal property under certain circumstances; amending s. 380.08, F.S.; deleting the requirement that the seller disclose the annual tax assessment in certain land transactions; providing an effective date.

By the Committee on Appropriations and Senator Jenne—

**CS for SB 990**—A bill to be entitled An act relating to juvenile offenders; amending s. 39.0255, F.S.; revising a reporting requirement for a juvenile who is issued a civil citation by a law enforcement officer; amending s. 39.01, F.S.; revising the definition of the term "serious or habitual juvenile offender"; providing for a separate program for young offenders; reenacting ss. 39.052(5), 39.058(3)(e), (4)(a), F.S., relating to serious or habitual delinquent child placement and assessments, to incorporate the amendment to s. 39.01, F.S., in references thereto; amending s. 39.038, F.S.; requiring the child to join in the release agreement; amending s. 39.047, F.S.; providing responsibilities of the case manager; providing for the removal of the disabilities of nonage for certain minors; amending s. 39.0585, F.S.; revising provisions relating to information systems and records to authorize identification files on chronic delinquent offenders; defining "chronic delinquent offender"; providing for certain sharing of information; amending s. 39.044, F.S.; expanding detention

criteria, and reenacting ss. 39.037(1), 39.038(2) and (4), 39.042(3)(b)1., 39.049(5), 39.064(1), 39.402(4), F.S., relating to taking a child into custody, release from custody, use of detention, process and service, detention of escaped child, and placement in a shelter, to incorporate changes in references thereto; amending s. 39.052, F.S.; providing for arraignment at an adjudicatory hearing; creating s. 39.0445, F.S.; providing for placement of juvenile domestic violence offenders; amending s. 39.054, F.S.; providing for a judgment lien; amending s. 775.089, F.S., to expand applicability of restitution provisions to juvenile offenders, and reenacting ss. 921.187(2), 944.17(5)(f), 947.147, 947.181(2), 948.031(e), 948.032, F.S., relating to sentencing, commitment, control release, parole, probation, and community control, to incorporate changes in references thereto; amending ss. 538.07, 538.23, 810.115, F.S., relating to secondhand dealers, secondary metals recyclers, and injuring fences, to conform; amending s. 39.023, F.S.; expanding powers of the Commission on Juvenile Justice; amending ss. 960.001, 960.002, 960.003, 960.01, 960.02, 960.03, 960.07, 960.17, 960.20, 960.28, F.S., relating to victim assistance, to provide that victims and witnesses in juvenile delinquency cases have the same rights as those afforded to victims and witnesses in adult criminal cases; providing an effective date.

By the Committee on Governmental Operations and Senators Wexler and Weinstein—

**CS for SB 1058**—A bill to be entitled An act relating to homeowners' associations; creating ss. 617.301, 617.302, 617.303, 617.304, 617.305, 617.306, F.S.; providing for the regulation of homeowners' associations; providing for the scope of such regulation, minimum requirements of homeowners' associations, right of owners to peaceably assemble, appointment of a receiver for failure to fill vacancies on the board of directors sufficient to constitute a quorum, and voting and election procedures; providing for application to existing associations; providing an effective date.

By the Committees on Appropriations; Finance, Taxation and Claims; and Senators Johnson and Forman—

**CS for CS for SB 1162**—A bill to be entitled An act relating to taxation; requiring the Department of Revenue to develop and implement a limited-duration tax amnesty program for certain state taxes; providing definitions; providing conditions for participation in such program; amending s. 72.011, F.S.; providing conditions for filing an action to contest assessment or denial of refund; amending s. 196.011, F.S.; requiring homestead exemption applications to include the social security numbers of the property owner and spouse before a property appraiser may issue the homestead exemption; amending ss. 198.15, 198.18, F.S.; increasing penalties and interest for estate taxes due; amending s. 199.062, F.S.; requiring security brokers and investment advisers to file certain statements regarding customers' securities; allowing the department to require property appraisers to send intangible tax brochures to property owners; providing for retroactivity; authorizing the department to require state-registered security brokers and investment advisers to transmit once every 2 years a copy of the department's intangible tax brochure to certain clients; amending s. 199.282, F.S.; increasing penalties and interest for intangible taxes due; requiring a person applying for homestead exemption to certify in writing whether such person is required to file an annual intangible tax return in this state; providing a penalty; amending s. 201.17, F.S., relating to the documentary stamp tax and ss. 203.01, 203.06, F.S., relating to the gross receipts tax on utility services, to increase the interest and penalties on those taxes due; amending ss. 206.06, 206.08, 206.09, 206.44, 206.87, F.S., relating to motor and special fuel taxes and s. 207.007, F.S., relating to the motor and special fuel use tax and ss. 211.076, 211.33, F.S., relating to the severance tax, to increase the interest and penalties on those taxes due; amending s. 212.03, F.S.; requiring condominium associations or other persons responsible for the rental of condominium units to annually submit to the department certain information on rental units; providing a penalty; amending ss. 212.04, 212.085, F.S.; providing for increases in penalties on sales and use taxes due; amending s. 212.12, F.S.; providing for increases in interest and penalties on sales and use taxes due; amending s. 212.18, F.S.; providing that a state or local agency, board, or commission may not issue a license to any person engaged in any business without first ensuring that such person possesses a valid state sales tax registration certificate; providing an additional registration fee under certain circumstances; amending s. 213.051, F.S.; authorizing the department to issue subpoenas or subpoenas duces tecum under certain circumstances; amending s. 213.29, F.S.; increasing the penalty for failure to collect certain taxes; amending s. 213.30, F.S.; providing for compensation by the department to persons

who provide information regarding a taxpayer not in compliance with registration requirements; creating s. 213.36, F.S.; requiring in-state manufacturer's or distributor's representatives to register annually with the department; providing definitions; requiring representatives to submit annually a current list of their clients and certain information to the department; providing a penalty; creating s. 213.50, F.S.; providing for the revocation of a corporate charter under certain circumstances; prohibiting the Division of Corporations of the Department of State from issuing or reinstating a corporate charter under certain circumstances; creating s. 213.67, F.S.; authorizing the Department of Revenue to garnish property under certain circumstances; creating s. 213.69, F.S.; authorizing the department, upon final determination of unpaid taxes, to issue warrants for unpaid taxes; creating s. 213.70, F.S.; authorizing the department to require persons who are registered to submit certain state taxes to place them in escrow; creating s. 213.71, F.S.; providing that a person may not be issued a license to practice any profession regulated by the Department of Professional Regulation if that person has an outstanding tax warrant that has existed for a specified period of time; amending ss. 220.181, 220.211, 220.801, 220.803, 220.901, F.S.; increasing penalties for corporate income taxes due; amending s. 895.02, F.S., providing additional definitions for the term "racketeering activity" as used in the Florida RICO (Racketeer Influenced and Corrupt Organization) Act; authorizing the Department of Revenue to adopt emergency rules; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing for the exemption to be subject to the Open Government Sunset Review Act; restricting use of such information; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the department; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration of that requirement; amending s. 216.262, F.S.; providing an additional condition under which the Administration Commission may authorize an increase in the number of positions that were provided in an appropriations act; amending s. 213.053, F.S.; authorizing the department to provide certain information to eligible participants in the Registration Information Sharing and Exchange Program; providing appropriations; establishing positions; providing for pilot projects to improve the collection and enforcement of taxes; providing applicability of increased penalty and interest provisions; providing appropriations; providing effective dates.

By the Committee on Finance, Taxation and Claims; and Senator Walker—

**CS for SB 1564**—A bill to be entitled An act relating to ad valorem taxation; amending s. 200.065, F.S., which prescribes the method for fixing millage by the various taxing authorities; revising the form of the advertisement of intent to finally adopt a millage rate and budget which such authorities are required to publish; providing requirements for a budget summary notice that accompanies such advertisement; revising requirements of a school district's notice of intent to levy additional taxes under s. 236.25(2), F.S.; providing legislative intent; creating pt. II of ch. 196, F.S., consisting of ss. 196.40, 196.41, 196.42, 196.43, 196.44, 196.45, 196.46, 196.47, F.S.; providing for relief from ad valorem taxes by means of grants to qualified households; providing definitions and procedures; providing for administration by the Department of Revenue; providing penalties; providing for confidentiality; providing an appropriation; providing an effective date.

By the Committees on Finance, Taxation and Claims; Transportation; and Senator Crenshaw—

**CS for CS for SB 1624**—A bill to be entitled An act relating to drivers' licenses; creating s. 320.0899, F.S.; requiring certain drivers who have been lawfully arrested and convicted of driving a motor vehicle with a license which has been suspended, canceled, or revoked to relinquish all license plates of vehicles registered to that person at the next renewal of the license plate; providing for the issuance of license plates bearing a special series of identifying numbers or letters to such persons; providing fees; amending s. 324.201, F.S.; authorizing recovery agents or recovery agencies licensed under ch. 493, F.S., to seize license plates; providing for special license plate designations for certain persons whose license has been suspended for failure to maintain financial responsibility; providing for a refund; providing for notification timeframes of law enforcement agencies; providing for delivery of seized license plates; requiring contin-

ued use of special series license plate under specified conditions; amending s. 627.732, F.S.; defining the term "recovery agent"; amending s. 627.733, F.S.; providing for the distribution of fees collected with respect to a seized license plate; providing for disposition of certain funds in the Accident Report Trust Fund; providing for recovery agents or recovery agencies to seize license plates; providing for procedures for payment of recovery fees; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Dantzler—

**CS for SB 1656**—A bill to be entitled An act relating to taxation of fuel; amending s. 206.01, F.S.; defining the term "wholesaler"; amending s. 206.05, F.S.; requiring certain importers to file a bond with the department; amending s. 206.065, F.S.; authorizing certain licensed wholesalers and importers to import or purchase tax-exempt motor fuel; amending ss. 206.41, 206.60, 206.605, 212.62, 336.021, 336.025, 336.026, F.S.; requiring that the constitutional gas tax, the county and municipal gas taxes on motor fuel, the tax on the sale of fuel, the voted gas tax, the local option gas tax, and the State Comprehensive Enhanced Transportation System Tax be remitted on the net amount of fuel; requiring licensees owning or operating retail stations or having fuel on consignment at such stations who sell more fuel than was purchased tax-paid or was reported to the state when purchased or removed from storage tax-exempt to report the additional gallons sold and pay the additional tax due; requiring retail dealers under ss. 336.021, 336.025, and 336.026, F.S., who sell more fuel than was purchased from suppliers to remit the taxes levied under parts I and II of chapter 206, F.S., and part II of chapter 212, F.S.; specifying the administrative and enforcement provisions of chapters 206 and 212, F.S., applicable to taxes under ss. 336.021 and 336.025, F.S.; amending s. 206.59, F.S.; providing that any refiner, importer, wholesaler, or person who collects more tax on the sale of motor fuel than is remitted to the Department of Revenue or paid to his supplier is liable for the difference in tax plus all applicable interest and penalties; providing an effective date.

By the Committees on Finance, Taxation and Claims; International Trade, Economic Development and Tourism; and Senator Diaz-Balart—

**CS for CS for SB 1774**—A bill to be entitled An act relating to fee time-share real property; amending s. 192.037, F.S.; revising provisions pertaining to the collection, remittance, and enforcement of taxes and special assessments with respect to fee time-share real property; deleting a provision that the managing entity has a lien on the time-share periods for taxes and special assessments; requiring county property appraisers to submit specified information in budget requests to the Department of Revenue; amending s. 721.06, F.S.; revising disclosure to purchaser; amending s. 721.07, F.S.; modifying the public offering statement requirements; amending s. 721.13, F.S.; providing that failure to timely deliver notices will be deemed a violation of ch. 721, F.S.; providing an effective date.

By the Committees on Governmental Operations; Health and Rehabilitative Services; and Senators Malchon, Forman and Kiser—

**CS for CS for SB's 2186 and 2384**—A bill to be entitled An act relating to health care; creating s. 14.28, F.S.; creating the Health Care System Administration within the Executive Office of the Governor and providing for its organization and duties; creating the Florida Health Care Access Plan Act; providing definitions; requiring the Health Care System Administration to establish a health care coverage program for low-income, unemployed persons and others who cannot obtain health care coverage; requiring the Health Care System Administration to establish and implement the Florida Health Care Access Plan; providing principles for establishing the plan; providing requirements for the Florida Health Care Access Plan; requiring the Health Care System Administration to submit an interim implementation plan; authorizing the Governor and state departments to seek certain federal statutory changes and waivers; requiring the Health Care System Administration to promote voluntary private health care coverage and health care cost containment; requiring the Health Care System Administration to set certain annual targets; providing for an advisory council to consider administrative and legislative reforms; requiring the Health Care System Administration and the Department of Labor and Employment Security to collect information regarding employee health care coverage; providing an exemption from s. 119.07(1), F.S., for the identity of employers and employees with respect to health care coverage information provided; providing for review of the exemption pursuant to s. 119.14, F.S.; requiring the Health Care System Administration to collect data regarding health care

expenditures and provide annual estimates of health care expenditures; creating s. 627.6697, F.S.; providing for mandated benefit exceptions and providing basic benefit plans for general groups and small employer groups; providing a definition; providing for premium tax exemption on small employer groups; amending s. 409.912, F.S.; requiring the Department of Health and Rehabilitative Services to apply for federal waivers to expand enrollment of Medicaid recipients in managed care plans; requiring the department to enroll certain Medicaid clients in managed care plans, if federal waivers are obtained; authorizing the department to contract with certain entities to develop Medicaid prepaid health plans; requiring the department to inform recipients of their choices and rights and to monitor managed care plans; requiring the department to contract for certain services with the Florida Health Care Purchasing Cooperative; providing an implementation schedule; requiring the department to apply for federal waivers to implement competitive bidding and selective contracting procedures; requiring the department to pilot test competitive bidding and selective contracting procedures if waivers are obtained; amending s. 110.123, F.S.; limiting the health benefit plan options from which state officers and state employees hired after July 1, 1992, may select; entitling certain persons to a credit against certain premiums under certain circumstances; creating the Healthy Communities, Healthy People Act; providing definitions; requiring the Department of Health and Rehabilitative Services to develop model health promotion and wellness programs for communities to implement; providing requirements for the model programs; providing reporting requirements; providing for a pilot project to develop a model maternal, child, and adult health care delivery system in a geographic area of an urban county and a rural county; prescribing goals of the system and criteria for determining the success of the project; providing for health surveys; amending s. 20.19, F.S.; authorizing the department to establish an Office of Health Promotion and Wellness; renaming the position of Assistant Secretary for Regulation and Health Facilities and deleting certain of his responsibilities; requiring the Department of Health and Rehabilitative Services to establish the Florida Health Services Corps to provide financial aid to student health care practitioners in return for service; requiring the State Health Officer to supervise the corps; providing requirements for participation in the corps; providing rulemaking authority; amending s. 768.28, F.S.; expanding the definition of the term "agency" for purposes of the waiver of sovereign immunity in tort actions to include members of the Florida Health Services Corps; reenacting ss. 766.203(1), 766.207(1), F.S., relating to pre-suit investigation and voluntary binding arbitration of medical negligence claims, to incorporate that amendment in references thereto; requiring the Florida Health Access Corporation to expand its operations to two new market areas; requiring the corporation to conduct certain studies and issue a report; requiring the Florida Health Care Purchasing Cooperative to develop a computerized billing and claims system; requiring the Florida Health Care Purchasing Cooperative to develop a model health care benefit package; amending s. 233.067, F.S.; revising duties of the Department of Education with respect to health education and substance abuse prevention programs; amending s. 407.001, F.S.; revising the short title of ch. 407, F.S.; creating s. 407.0015, F.S.; declaring legislative intent; amending s. 407.002, F.S.; providing definitions; amending s. 407.01, F.S.; renaming the Health Care Cost Containment Board as the Hospital Budget Review Board and providing for its membership and organization; creating s. 407.021, F.S.; prescribing duties of the Health Care System Administration; amending s. 407.03, F.S.; prescribing powers of the Health Care System Administration; amending s. 407.04, F.S.; providing for assessments against health care facilities; providing budgetary and financial requirements for the Health Care System Administration; creating s. 407.051, F.S.; providing for data collection; providing for confidentiality of the identity of health care providers providing certain data; creating s. 407.055, F.S.; providing for research, analyses, studies, and reports; creating s. 407.058, F.S.; providing for public education and for dissemination of health care information; creating s. 407.065, F.S.; providing for development of medical practice parameters; creating s. 407.068, F.S.; providing duties of the Health Care System Administration with respect to cost containment strategies; creating s. 407.071, F.S.; providing duties of the Health Care System Administration with respect to consumer complaints; creating s. 407.075, F.S.; providing for review of hospital budgets and regulation of hospital gross revenue; transferring, renumbering, and amending s. 407.52, F.S.; prescribing policy with respect to philanthropic support for health care; transferring, renumbering, and amending s. 407.13, F.S.; providing for prospective payment arrangements; transferring, renumbering, and amending s. 407.12, F.S.; providing for quality assurance monitoring; amending s. 407.08, F.S.; providing for recommendations and reports by the Health Care System Administration; transferring, renumbering, and amending s.

407.06, F.S.; providing for inspections and audits; providing penalties for violations of law or rule; transferring, renumbering, and amending s. 407.53, F.S.; providing that a health care facility or health care provider that alleges that a factual determination by the board or the Health Care System Administration is incorrect has the burden of proving that allegation; transferring, renumbering, and amending s. 407.54, F.S.; prescribing duties of the Public Counsel with respect to proceedings of the board; transferring, renumbering, and amending s. 407.035, F.S.; providing effect of ch. 407, F.S., on current rules; amending ss. 112.153, 154.304, 212.055, 240.4075, 381.698, 383.336, 394.4787, 394.4788, 395.01465, 395.017, 395.034, 395.101, 395.1015, 395.60, 395.61, 395.63, 400.609, 408.001, 409.2673, 409.9113, 409.9114, 440.13, 766.112, 766.314, 768.81, F.S.; conforming cross-references; conforming provisions to include redesignations and reassignments of duties made by this act; requiring the Health Care System Administration to conduct a study; requiring the Hospital Budget Review Board to develop a methodology to establish a standardized gross revenue per adjusted admission; requiring the Hospital Budget Review Board to develop a case mix measure for comprehensive inpatient rehabilitation hospitals; amending s. 381.0401, F.S.; transferring responsibilities for the State Center for Health Statistics from the Department of Health and Rehabilitative Services to the Health Care System Administration; amending ss. 381.701, 381.702, 381.703, 381.704, 381.705, 381.706, 381.707, 381.708, 381.709, 381.710, 381.713, 381.714, 381.715, 381.7155, F.S.; transferring certain duties of the Department of Health and Rehabilitative Services under the Health Facility and Services Development Act to the Health Care System Administration; changing the membership of the statewide Health Council and renaming it the Health Policy Council; providing for continued effect of extant certificates of need; amending ss. 154.245, 186.003, 186.022, 186.503, 186.508, 189.415, 385.201, 395.003, 395.005, 400.071, 483.053, 651.118, F.S.; conforming cross-references and references to the Department of Health and Rehabilitative Services; conforming provisions to include redesignations and reassignments of duties made by this act; repealing ss. 395.034(10), 407.003, 407.025, 407.09, 407.30, 407.32, 407.33, 407.34, 407.70, 407.02, 407.05, 407.07, 407.10, 407.11, 407.23, 407.31, 407.50, 407.51, F.S., relating to health care cost containment; repealing s. 34, ch. 88-394, Laws of Florida, which provides for the repeal of ss. 407.001, 407.002, 407.01, 407.03, 407.035, 407.04, 407.06, 407.08, 407.12, 407.13, 407.52, 407.53, 407.54, F.S.; repealing s. 1(4), ch. 90-192, Laws of Florida, which provides for the repeal of ss. 394.4784(4), 394.4788(2), (3), F.S.; repealing s. 1(3), ch. 89-296, Laws of Florida, which provides for the repeal of s. 395.63, F.S.; providing appropriations; providing effective dates.

By the Committees on Finance, Taxation and Claims; Natural Resources and Conservation; and Senators Kirkpatrick, Jenne and Thurman—

**CS for CS for SB 2288**—A bill to be entitled An act relating to pollutant discharge prevention and removal; amending s. 376.031, F.S.; providing a definition; amending s. 376.30, F.S.; providing legislative intent; amending s. 376.301, F.S.; providing certain definitions; amending s. 376.302, F.S.; prohibiting certain activities; providing penalties; amending s. 376.303, F.S.; authorizing the Department of Environmental Regulation to adopt rules imposing a schedule of fees for regulated storage systems; amending s. 376.305, F.S.; revising the abandoned tank restoration program; amending s. 376.3071, F.S.; revising provisions specifying uses of the Inland Protection Trust Fund; requiring the department to reimburse certain cleanup costs; abolishing the Financial and Technical Advisory Committee; requiring the department to establish an efficiency task force; providing for membership; providing duties; amending s. 376.3072, F.S.; revising the Florida Petroleum Liability and Restoration Insurance Program; authorizing the department to provide certain restoration coverage; providing a schedule; authorizing the department to conduct audits; requiring interest on overpayments by the department; amending s. 376.3074, F.S.; authorizing the department to collect certain noncompliance fees; providing for a course in storage tank operation and management; amending s. 376.308, F.S.; providing for liability and defenses of certain facilities; amending s. 376.311, F.S.; providing for nonapplication of a penalty; amending s. 376.313, F.S.; providing for joint and several liability; amending s. 376.317, F.S.; deleting certain requirement for a county to adopt a countywide ordinance regulating underground storage tanks; amending s. 206.9935, F.S.; increasing the excise tax for inland protection; reenacting s. 206.9941, F.S., relating to exemptions; amending s. 376.320, F.S.; specifying applicability; amending s. 376.321, F.S.; providing definitions; amending s. 376.322, F.S.; deleting a requirement that the department monitor certain facilities; deleting a requirement that the department issue certain registration certificates; amending s. 376.323, F.S.; changing date of tank registrations; increasing the registration fee;

requiring the department to issue certain registration placards; amending s. 376.324, F.S.; revising facility containment and integrity plan requirements; amending s. 376.325, F.S.; requiring new and replacement tanks to have secondary containment; amending s. 376.326, F.S.; providing for applicability; amending s. 376.60, F.S.; exempting state universities from asbestos removal fees; transferring funds from the Florida Coastal Protection Trust Fund to the Water Quality Assurance Trust Fund; providing for repayment to the Florida Coastal Protection Trust Fund; providing an effective date.

By the Committee on Governmental Operations and Senator Kiser—

**CS for SB 2322**—A bill to be entitled An act relating to the regulation of banking and securities and the regulation of insurance; providing such regulation shall be conducted by officials appointed by the Governor; creating a Committee on the Regulation of Banking and Securities to select the most effective structure of such regulation under an appointed official or appointed officials; providing for committee membership; providing for reimbursement of certain expenses; requiring a report; creating a Committee on the Regulation of Insurance to select the most effective structure of such regulation under an appointed official or officials; providing for committee membership; providing for reimbursement of certain expenses; requiring a report; providing certain appropriations; providing for repeal of committees; providing an effective date.

## MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State CS for SB 314, Senate Bills 836 and 1360, which he approved on March 9, 1992.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

### FIRST READING

*The Honorable Gwen Margolis, President*

I am directed to inform the Senate that the House of Representatives has passed HB 169, HB 187, HB 527, CS for HB 701, CS for HB 937, CS for HB 1211, HB 1257, CS for HB 2111; has passed as amended CS for CS for HB 189, HB 455, CS for CS for HB 839, HB 859, HB 935, CS for CS for HB 955, HB 1055, CS for CS for HB 1151, HB 1153, HB 1397, CS for HB 1447, CS for HB 1485, HB 1851, HB 2165, HB 2223, CS for HB 2439, HJR 2491, HB 2601 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By Representatives Kelly and C. Smith—

**HB 169**—A bill to be entitled An act relating to educational facilities; amending s. 235.196, F.S.; requiring the Office of Educational Facilities through an independent appraiser to determine the value of existing sites for purposes of developing community educational facilities; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Representative Hafner and others—

**HB 187**—A bill to be entitled An act relating to health insurance subsidies; creating ss. 175.401 and 185.50, F.S.; providing for retiree health insurance subsidies for firefighters and police officers; providing a declaration of home rule authority; providing purpose; authorizing establishment and termination of health insurance subsidy trust funds by ordinance; providing for funding through premium tax moneys, employee contributions, and municipal contributions; providing eligibility; providing for establishment of subsidy amount; providing for payment; providing for investment and deposit of trust funds; providing for refund of contributions; providing for administration, actuarial valuations, and annual audits; providing for promulgation of rules and payment of administrative costs; protecting subsidy payments from assignment, execution, or attachment; providing that such subsidies shall be in addition to other benefits; requiring compliance and providing that premium tax funds may be withheld for noncompliance; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; Community Affairs; and Appropriations.



By Representative Rayson and others—

**HB 527**—A bill to be entitled An act relating to aging and adult services; amending ss. 410.033 and 410.035, F.S.; providing for subsidy payments to providers of goods and services under the home care program for disabled adults and elderly persons; authorizing payment for goods and for extraordinary medical, dental, or pharmaceutical expenses, as a special supplement; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By the Committee on Ethics and Elections; and Representative Long—

**CS for HB 701**—A bill to be entitled An act relating to elections; amending s. 105.041, F.S.; providing that candidates for the office of circuit judge or county court judge shall be listed on the ballot in the order determined by lot conducted, after the close of qualifying, by either the supervisor of elections or the director of the Division of Elections of the Department of State, depending on the area of jurisdiction of the office sought; providing an effective date.

—was referred to the Committees on Judiciary; and Executive Business, Ethics and Elections.

By the Committee on Commerce and Representative Graham—

**CS for HB 937**—A bill to be entitled An act relating to corporations; amending s. 607.0120, F.S.; revising filing requirements; amending s. 607.0123, F.S.; revising language with respect to the effective time and date of certain documents; amending s. 607.0124, F.S.; revising language with respect to correcting a filed document; amending s. 607.0202, F.S.; deleting certain required information in the articles of incorporation; amending s. 607.0301, F.S.; revising language with respect to the purposes and application of the Florida Business Corporation Act; amending s. 607.0401, F.S.; revising language with respect to the corporate name; amending s. 607.0501, F.S.; eliminating a required report filed by a registered agent; amending s. 607.0502, F.S.; revising language with respect to the resignation of a registered agent; amending s. 607.0601, F.S.; revising language with respect to authorized shares; providing requirements with respect to classes of shares; amending s. 607.0603, F.S.; revising language with respect to outstanding shares; amending s. 607.0620, F.S.; revising language with respect to subscribers who default; amending s. 607.0703, F.S.; revising language with respect to court ordered meetings; amending s. 607.0704, F.S.; revising language with respect to actions by shareholders without a meeting; amending s. 607.0720, F.S.; revising language with respect to shareholders' list for meeting; amending s. 607.0725, F.S.; providing additional requirements with respect to quorum and voting requirements; repealing s. 607.0727, F.S., relating to shareholder quorum and voting and greater or lesser voting requirements; amending s. 607.0730, F.S.; revising language with respect to voting trusts; amending s. 607.0731, F.S.; revising language with respect to shareholders' agreements; amending s. 607.0804, F.S.; revising language with respect to the election of directors by certain voting groups; amending s. 607.0806, F.S.; revising language with respect to staggered terms for directors; amending s. 607.0831, F.S.; deleting a provision with respect to certain quorums; deleting a provision relating to the liability of directors which provided for application to nonprofit corporations; amending s. 607.0832, F.S.; revising language with respect to director conflicts of interest; amending s. 607.0901, F.S.; revising language with respect to affiliated transactions; amending s. 607.0902, F.S.; revising language with respect to control-share transactions; amending s. 607.1002, F.S.; providing that the board of directors may adopt an amendment to the articles of incorporation, without shareholder action, to change the par value for a class or series of shares; amending s. 607.1006, F.S.; revising language with respect to articles of amendment; amending s. 607.1007, F.S.; revising language with respect to restated articles of incorporation; amending s. 607.1103, F.S.; deleting language which provides that action by the shareholders of a surviving corporation is not required with respect to action on a plan under certain circumstances; amending s. 607.1104, F.S.; revising language with respect to the merger of a subsidiary corporation; amending s. 607.1105, F.S.; revising language with respect to mergers; amending s. 607.1320, F.S.; revising language with respect to the procedure for exercise of dissenters' rights; amending s. 607.1406, F.S.; revising language with respect to claims against a dissolved corporation; amending s. 607.1430, F.S.; revising language with respect to grounds for judicial dissolution; amending s. 607.1433, F.S.; revising language with respect to judgment of dissolution; amending s. 607.1506, F.S.; revising language with respect to the use of a fictitious name; amending s. 607.1507, F.S.; requiring a filed writ-

ten statement by certain registered agents; amending s. 607.1508, F.S.; revising language with respect to a registered agent's change of address; amending s. 607.1509, F.S.; revising language with respect to the termination of an agency appointment; amending s. 617.01201, F.S.; providing that certain documents filed by corporations not for profit must be legible; amending s. 617.0122, F.S.; providing fees for filing documents; providing a fee exemption for certain nonprofit organizations; amending s. 617.0123, F.S.; revising language with respect to the effective date of a document; amending s. 617.0124, F.S.; revising language with respect to correcting filed documents; amending s. 617.01301, F.S.; specifying documents which the Department of State is not required to file; authorizing the Department of State to bring certain court actions and certify to the Department of Legal Affairs for further action; amending s. 617.0202, F.S.; providing additional required information to be set forth in the articles of incorporation; amending s. 617.0401, F.S.; revising language with respect to the corporate name; amending s. 617.0501, F.S.; revising language with respect to a registered agent; amending s. 617.0502, F.S.; revising language with respect to the resignation of a registered agent; creating s. 617.0503, F.S.; providing for duties of registered agents; amending s. 617.0601, F.S.; revising language with respect to corporation members; amending s. 617.0701, F.S.; revising language with respect to members' meetings; amending s. 617.0721, F.S.; providing for voting by members; creating s. 617.0730, F.S.; providing for required provisions with respect to members of the corporation; amending s. 617.0808, F.S.; revising language with respect to removal of directors; amending s. 617.0833, F.S., relating to loans to directors or officers; amending s. 617.1001, F.S.; providing for amendments to the articles of incorporation; amending s. 617.1002, F.S.; revising language with respect to the procedure for amendments to the articles of incorporation; amending s. 617.1007, F.S.; revising language with respect to restated articles of incorporation; amending s. 617.1401, F.S.; providing that articles of dissolution must be executed in a certain manner; amending s. 617.1433, F.S.; providing for judgment of dissolution; amending s. 617.1502, F.S.; authorizing the Department of State rather than the Department of Legal Affairs to collect penalties from foreign corporations; amending s. 617.1504, F.S.; providing an additional set of circumstances requiring an amended certificate of authority; amending s. 617.1506, F.S.; revising language with respect to the corporate name of a foreign corporation; amending s. 617.1507, F.S.; revising language with respect to the registered office and registered agent of a foreign corporation; amending s. 617.1508, F.S.; revising language with respect to change of address of a registered agent; amending s. 617.1509, F.S.; providing for the termination of agency appointments for foreign corporations; amending s. 617.1601, F.S.; revising language with respect to corporate records; creating s. 617.1602, F.S.; providing for inspection of records by members; creating s. 617.1603, F.S.; providing for the scope of the inspection right; creating s. 617.1604, F.S.; providing for court ordered inspection; creating s. 617.1605, F.S.; providing for financial reports for members; amending s. 617.1622, F.S.; providing for additional information in an annual report; amending s. 617.1623, F.S.; revising language with respect to corporate information available to the public; amending s. 617.1908, F.S.; providing for the applicability of the Business Corporation Act; creating s. 617.2102, F.S.; providing for fines and penalties against members; creating s. 617.2103, F.S.; providing exemptions for certain corporations; amending s. 620.103, F.S.; revising language with respect to the name of a limited partnership; providing effective dates.

—was referred to the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

By the Committee on Natural Resources and Representative Hafner—

**CS for HB 1211**—A bill to be entitled An act relating to beach and shore preservation; amending s. 161.053, F.S.; removing the requirement that the Department of Natural Resources file coastal construction control lines in the public records of affected municipalities; extending a deadline for the department to reestablish certain coastal construction control lines or notify the Legislature of its inability to do so by that time; providing a limited period of exemption from coastal construction and excavation requirements for those structures determined to be under construction at the time of establishment or reestablishment of the coastal construction control line and providing for extension of that period; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Appropriations.



By Representative Boyd—

**HB 1257**—A bill to be entitled An act relating to the State Health Officer; amending s. 20.19, F.S.; authorizing the State Health Officer to issue and enforce health advisories; providing requirements with respect to issuing health advisories; requiring the Department of Health and Rehabilitative Services to adopt rules; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By the Committee on Tourism, Hospitality and Economic Development; and Representative Viscusi—

**CS for HB 2111**—A bill to be entitled An act relating to the Department of State; amending ss. 265.284 and 267.061, F.S.; allowing the Division of Cultural Affairs and the Division of Historical Resources of the Department of State to enter into contracts to insure certain items to which it holds title; providing an effective date.

—was referred to the Committees on Governmental Operations and Appropriations.

By the Committees on Appropriations and Health Care and Representative Hafner and others—

**CS for CS for HB 189**—A bill to be entitled An act relating to post-secondary education; amending s. 240.4075, F.S.; providing that funds in the Nursing Student Loan Forgiveness Trust Fund shall be available for use in the nursing scholarship loan program; deleting provisions limiting the use of funds; creating s. 240.4076, F.S.; establishing the nursing scholarship loan program within the Department of Health and Rehabilitative Services; providing for eligibility, amount of awards, repayment of loans, default allowances, and default penalties; providing for rules; providing for funding; providing an appropriation; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Education; and Appropriations.

By the Committee on Regulatory Reform and Representative Tobin—

**HB 455**—A bill to be entitled An act relating to the infant hearing impairment program; amending s. 383.144, F.S.; deleting references to pilot sites and pilot programs for infants with hearing impairments; eliminating the Council for the Infant Hearing Impairment Program; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By the Committees on Finance and Taxation; Agriculture; and Representative Harris and others—

**CS for CS for HB 839**—A bill to be entitled An act relating to agricultural fertilizers; amending s. 576.011, F.S.; revising definitions; amending s. 576.021, F.S.; requiring annual licensing of fertilizer distributors and annual registration of specialty fertilizer distributors by the Department of Agriculture and Consumer Services; providing fees; providing application contents; amending s. 576.031, F.S.; providing labeling requirements for fertilizer and specialty fertilizer; amending s. 576.041, F.S.; revising provisions relating to inspection fees, records, and required bond; increasing inspection fees; providing for use of such fees; providing a penalty for nonpayment of tonnage fee; increasing inspection fee penalty; revising bonding requirements; amending s. 576.051, F.S., relating to inspection, sampling, and analysis; authorizing court orders for regulatory inspection by the department; providing for the use of fertilizer analysis reports rather than certificates of analysis; amending s. 576.055, F.S., relating to deconing, to conform; amending s. 576.061, F.S.; relating to plant nutrient tolerances and deficiencies; increasing penalties; conforming terminology; providing for use of proceeds from payment of penalties; amending s. 576.085, F.S.; providing that the department shall establish plant nutrient content by rule; creating s. 576.087, F.S.; requiring the use of antisiphon devices for specified irrigation systems; amending s. 576.091, F.S.; changing the composition of the Fertilizer Technical Council; deleting provisions relative to official action by the council and per diem; amending s. 576.101, F.S.; providing for cancellation, revocation, and suspension of license; providing for probationary status; amending s. 576.111, F.S., relating to stop-sale, stop-use, removal, and hold orders, to conform; amending s. 576.122, F.S., relating to seizure, condemnation, and sale; amending s. 576.132, F.S., relating to recovery of damages; amending s. 576.141, F.S., relating to sales or exchanges between manu-

facturers or licensees; amending s. 576.151, F.S.; authorizing the use of specified fertilizer materials under certain conditions; amending ss. 576.181 and 576.191, F.S., relating to administration, rules, procedure, and enforcement of ch. 567, F.S.; providing for review and repeal of ch. 567, F.S.; amending s. 575.01, F.S.; clarifying definitions relating to certification of seed; amending s. 575.07, F.S.; providing for penalties and administrative fines; amending s. 578.011, F.S.; revising definitions under the Florida Seed Law; amending s. 578.08, F.S.; revising seed registration requirements; revising registration fee schedule; amending s. 578.11, F.S.; authorizing the department to analyze seed samples as requested by a consumer; providing for fees; reenacting s. 578.14, F.S., relating to packet vegetable and flower seed, to incorporate the amendment to s. 578.08, F.S., in a reference thereto; amending s. 578.26, F.S.; increasing the fee for filing a complaint; providing for recovery of costs; amending s. 578.28, F.S., relating to seed in hermetically sealed containers; providing that the moisture of specified packaged agricultural or vegetable seed shall be established by rule of the department; amending s. 580.031, F.S.; clarifying definitions relating to commercial feed and feedstuffs; amending s. 580.061, F.S., relating to inspection fees, payment, enforcement, reporting, and bond; providing a penalty; amending s. 580.091, F.S., relating to commercial feed inspection, sampling, and analysis; providing for payment of analysis fees; amending s. 580.131, F.S.; revising commercial feed tolerance rates, violations, and penalties; creating s. 580.132, F.S.; establishing commercial value for commercial feed; amending s. 580.151, F.S.; providing for an additional member of the Commercial Feed Technical Council; repealing s. 575.08, F.S., relating to the enforcement of ch. 575, F.S., the "Florida Certification Seed Law"; making an appropriation from the General Inspection Trust Fund; providing an effective date.

—was referred to the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations.

By Representative Abrams—

**HB 859**—A bill to be entitled An act relating to water and wastewater systems; amending s. 180.191, F.S.; expanding the exemption of municipal water and sewer utilities operating outside municipal boundaries from county regulation; amending provisions relating to rates, fees, and charges; repealing s. 367.0815, F.S., relating to fees and costs to be paid by public utilities with respect to rate-increase requests; providing an effective date.

—was referred to the Committees on Commerce; Community Affairs; and Finance, Taxation and Claims.

By Representative Jamerson—

**HB 935**—A bill to be entitled An act relating to public safety officers; amending s. 112.19, F.S.; redefining the term "law enforcement officer" with respect to death benefits to include officers who serve process or attend terms of the circuit or county court or bailiffs; amending s. 112.191, F.S.; revising language with respect to death benefits payable to firefighters killed in the line of duty; providing for retroactive application; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; Community Affairs; and Appropriations.

By the Committees on Appropriations and Health Care and Representative Bloom and others—

**CS for CS for HB 955**—A bill to be entitled An act relating to medical practice; repealing s. 458.331(1)(gg), F.S., relating to grounds for disciplinary action with respect to a health care provider who makes certain referrals; repealing s. 459.015(1)(k), F.S., relating to disciplinary grounds for osteopaths; repealing s. 460.413(1)(k), F.S., relating to disciplinary grounds for chiropractors; repealing s. 461.013(1)(j), F.S., relating to disciplinary grounds for podiatrists; repealing s. 463.016(1)(m), F.S., relating to disciplinary grounds for optometrists; repealing s. 466.028(1)(n), F.S., relating to disciplinary grounds for dentists; creating the "Patient Self-Referral Act of 1992"; providing legislative intent; providing definitions; prohibiting certain financial arrangements between referring health care providers and providers of health care services; providing for grounds for disciplinary action; providing for disclosure of ownership and alternative providers of health care services; providing penalties for violation of disclosure provisions; providing an exception for specified radiation therapy facilities; providing for repeal; creating s. 407.60, F.S.; directing the Health Care Cost Containment Board to conduct an annual study of charges for radiation therapy procedures; empowering the Health Care Cost Containment Board to establish fees

for radiation therapy procedures upon a finding that charges for such procedures exceed a specified amount; establishing a maximum fee schedule for radiation therapy procedures; providing penalties for exceeding a fee schedule; providing for repeal; creating s. 407.61, F.S.; empowering the Health Care Cost Containment Board to conduct studies relating to health care provider referral patterns; authorizing the Health Care Cost Containment Board to require submission of data; specifying data elements; requiring a report; providing for repeal; amending s. 455.25, F.S., relating to disclosure of financial interests; providing a penalty; providing for repeal; providing an appropriation; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Professional Regulation; and Appropriations.

By the Committee on Regulatory Reform and Representative Tobin—

**HB 1055**—A bill to be entitled An act relating to construction contracting; amending s. 489.105, F.S.; redefining the term “contractor” to include “specialty contractor”; revising the definition of “residential contractor”; amending s. 489.117, F.S.; providing additional requirements with respect to registration of certain persons; amending s. 489.119, F.S.; prohibiting certain persons registered or certified who have had their license revoked from being employed in a managerial or supervisory capacity in certain business organizations; creating s. 489.120, F.S.; providing for an automated information system; amending s. 489.127, F.S.; providing that certain penalties shall be retained locally; authorizing local building departments to collect certain outstanding fines against registered or certified contractors; amending s. 489.131, F.S.; revising language with respect to applicability; providing for disciplinary proceedings against local contractors by local governments; providing for a fine; amending ss. 489.103 and 489.503, F.S.; eliminating from provisions of law regulating construction contracting and electrical and alarm system contracting an exemption for certain authorized employees of school boards, the Board of Regents, and community colleges; providing an exception; providing effective dates.

(Substituted for **CS for SB 2278** on the Special Order Calendar this day.)

By the Committees on Appropriations and Vocational/Technical Education and Representative Kelly and others—

**CS for CS for HB 1151**—A bill to be entitled An act relating to educational facilities; creating s. 235.199, F.S.; providing for cooperative funding of vocational educational facilities; providing requirements of a school district prior to submitting a request for funds; requiring establishment of need; providing for a committee to review and evaluate requests; providing budgeting and funding requirements; providing duties of the Office of Educational Facilities; establishing funding eligibility for certain projects; providing for review and repeal; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Veterans and Military Affairs and Emergency Preparedness; and Representatives Bronson and Jennings—

**HB 1153**—A bill to be entitled An act relating to veterans; creating new subsection (8) to s. 292.05, F.S., providing the department may accept donations; amending ss. 320.084 and 320.0842, F.S.; providing for the issuance of free permanent exemption parking permits to certain disabled veterans; updating terminology; amending s. 320.0843, F.S.; providing for license plates for certain disabled persons; amending s. 320.0848, F.S.; providing fees for certain permanent exemption parking permits; providing for the disposition of fees; providing an effective date.

—was referred to the Committees on Transportation; Community Affairs; Finance, Taxation and Claims; and Appropriations.

By Representative Foley—

**HB 1397**—A bill to be entitled An act relating to speed measuring devices; amending s. 316.1906, F.S.; redefining the term “radar” to include laser-based speed-measurement systems; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Public Schools and Representatives Chinoy and Clemons—

**CS for HB 1447**—A bill to be entitled An act relating to education; amending s. 229.58, F.S.; revising provisions for establishment of school advisory councils; defining the term “education support employee”; providing an effective date.

—was referred to the Committee on Education.

By the Committee on Natural Resources and Representatives Peeples and Figg—

**CS for HB 1485**—A bill to be entitled An act relating to aquatic preserves; amending s. 258.39, F.S.; modifying names of the Fort Pickens, Rocky Bayou, and St. Andrews Aquatic Preserves; revising the boundaries of the St. Andrews Aquatic Preserve; amending s. 327.46, F.S.; providing for the establishment of restricted areas in the Rainbow Springs Aquatic Preserve for certain purposes; revising language with respect to restricted areas; providing additional criteria for the establishment of restricted boating areas; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Appropriations.

By the Committee on Health Care and Representative Bloom and others—

**HB 1851**—A bill to be entitled An act relating to advance directives; redesignating ch. 765, F.S.; creating part I of chapter 765, F.S.; providing definitions; providing legislative findings and intent; providing for effect of existing advance directives; providing for revocations; providing for review of certain decisions; preserving certain existing rights to consent to medical treatment; providing for statutory construction; providing for effects of an advance directive with respect to insurance; providing for immunity from liability; providing for discipline and license revocation of health care providers under certain circumstances; providing for constitutional effect; recognizing advance directives of other states; creating part II of chapter 765, F.S.; providing for a health care surrogate; providing for designating a surrogate; providing duties; providing for capacity of a principal to make certain decisions; providing responsibilities of a surrogate; creating part III of chapter 765, F.S.; providing procedures for declaring the withholding or withdrawing of life-prolonging procedures; providing a form for such declaration; providing for determining a patient's condition; providing procedures for a do-not-resuscitate order; providing for patient transfer; providing intent regarding mercy killing and suicide; providing penalties for falsifying a declaration; creating part IV of chapter 765, F.S.; providing for a proxy for making certain health care decisions; providing procedures; creating s. 744.3115, F.S.; providing court authority regarding health care surrogates; amending s. 744.345, F.S.; providing for designating a health care surrogate in letters of guardianship; amending s. 709.08, F.S.; providing for application of chapter 765; repealing ss. 745.41-745.52, F.S., relating to health care surrogates; repealing ss. 765.01-765.17, F.S., relating to the right to decline life-prolonging procedures; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Judiciary; and Appropriations.

By the Committee on Corrections and Representative Logan—

**HB 2165**—A bill to be entitled An act relating to the state correctional system; amending s. 945.602, F.S.; providing additional membership requirements for persons appointed to the Correctional Medical Authority and revising certain voting provisions; amending s. 945.603, F.S.; revising powers and duties of the authority; amending s. 945.6031, F.S.; providing for additional reports and corrective action procedures; amending s. 945.6032, F.S.; requiring review of amendments to the quality management program; creating s. 945.6034, F.S.; providing procedure for adopting, and responsibility for complying with, minimum health care standards for inmates; amending s. 945.6035, F.S.; providing dispute resolution and appeals procedure; creating s. 945.6036, F.S.; providing for enforcement of dispute resolution decisions; amending s. 944.023, F.S.; revising definition of “lawful capacity”; providing standards for design capacity and maximum capacity; requiring the correctional master plan to include habitability and inventory criteria; amending ss. 944.096 and 944.598, F.S., to conform; providing an effective date.

(Substituted for **CS for SB 2000** on the Special Order Calendar this day.)

By the Committee on Tourism, Hospitality and Economic Development; and Representatives Reddick and Brennan—

**HB 2223**—A bill to be entitled An act relating to film financing; providing legislative findings; creating the Florida Film and Television Investment Board; providing the purpose of the board; providing membership requirements; requiring public disclosure; providing powers and duties; creating the Florida Film and Television Investment Trust Fund; authorizing the investment of funds; providing conditions for investment; requiring an annual report; providing an effective date.

—was referred to the Committees on International Trade, Economic Development and Tourism; and Appropriations.

By the Committees on Appropriations and Transportation and Representative Peeples and others—

**CS for HB 2439**—A bill to be entitled An act relating to transportation; creating the Transportation Efficiency Act of 1992; amending s. 338.001, F.S.; providing that projects constructed as part of the Florida Intrastate Highway System Plan shall be included in the department's adopted work program; amending s. 335.182, F.S.; redefining the term "connection"; amending s. 339.155, F.S.; revising language with respect to transportation planning; amending s. 339.175, F.S.; revising language with respect to transportation planning organizations; creating a Metropolitan Planning Organization Advisory Council; providing for future repeal; amending s. 336.045, F.S.; revising language with respect to uniform minimum standards for design, construction, and maintenance; authorizing the department to accept certain donations; amending s. 333.025, F.S.; revising language with respect to air navigation and required permits for structures exceeding federal standards; amending s. 333.03, F.S.; revising language with respect to airport zoning regulations; creating s. 331.21, F.S.; providing a term of office for the presiding officer of an airport authority; providing criteria; amending s. 235.19, F.S.; revising language with respect to site planning and selection to provide a cross reference; amending s. 333.031, F.S.; revising language with respect to a report of the Airport Safety and Land Use Compatibility Study Commission; providing for the future repeal of s. 333.031, F.S., relating to the commission; creating s. 341.3201, F.S.; providing a short title; amending s. 341.321, F.S.; providing legislative intent with respect to the development of a high-speed rail transportation system; amending s. 341.322, F.S.; providing definitions; amending s. 341.325, F.S.; providing for special powers and duties of the department with respect to high-speed rail development; amending s. 341.329, F.S.; revising language with respect to bonds and project financing; providing reference to the department rather than the commission; amending s. 341.331, F.S.; revising language with respect to service designation and termini; amending s. 341.332, F.S.; revising language with respect to franchises; creating ss. 341.3331 through 341.3339, F.S.; providing for requests for proposals; providing for notice; providing for application for franchise and for filing; providing for confidentiality; providing for future review and repeal; providing for a franchise review process, for assessment, and for criteria; providing for interagency coordination of franchise application review; providing for public hearings; providing for the determination and award of the franchise, administrative proceedings, and final action on applications; providing for the effect of franchise; providing for post-franchise agreements; amending s. 341.334, F.S.; providing for right-of-way easements and eminent domain of the department; amending s. 341.335, F.S.; revising language with respect to the powers and duties of the Florida Land and Water Adjudicatory Commission; amending s. 341.336, F.S.; revising language with respect to the powers and duties of the Department of Environmental Regulation and the Department of Community Affairs and affected agencies; creating s. 341.337, F.S.; providing for certification application, filing and contents; repealing s. 341.338, F.S., relating to requests for proposals; repealing s. 341.339, F.S., relating to notice of issuance of request for proposals; repealing s. 341.341, F.S., relating to application for franchise; amending s. 341.342, F.S.; revising language with respect to agreements concerning contents of certification of application and supporting documentation; amending s. 341.343, F.S.; providing for review of application for certification; amending s. 341.344, F.S.; creating the Citizen Planning and Environmental Advisory Committee; amending s. 341.345, F.S.; revising language with respect to alternative corridors or transit station locations; amending s. 341.346, F.S.; revising language with respect to hearing officers; creating s. 341.3465, F.S.; providing for the alteration of time limits; amending s. 341.347, F.S.; revising language with respect to local government hearings; amending s. 341.348, F.S.; revising language with respect to reports and studies; amending s. 341.351, F.S.; revising language with respect to notice of application for certification

and proceedings relating to high-speed rail transportation system certification; amending s. 341.352, F.S.; revising language with respect to certification hearings; amending s. 341.353, F.S.; revising language with respect to the final disposition of application for certification; repealing s. 341.355, F.S., relating to the assessment of franchise component; repealing s. 341.358, F.S., relating to the conditions precedent to the award of a franchise; repealing s. 341.361, F.S., relating to determination and award of franchise; repealing s. 341.362, F.S., relating to terms and conditions of the franchise; amending s. 341.363, F.S.; revising language with respect to the effect of certification; amending s. 341.364, F.S.; revising language with respect to appeals to the board; creating s. 341.365, F.S.; providing for associated developments; amending s. 341.366, F.S.; revising language with respect to recording of notice of certified corridor route; amending s. 341.368, F.S.; revising language with respect to modification of franchise and certification; amending s. 341.369, F.S.; revising language with respect to the disposition of fees; increasing fees; amending s. 341.371, F.S.; revising language with respect to the revocation or suspension of the franchise; amending s. 341.372, F.S.; revising language with respect to administrative fines; amending s. 341.375, F.S.; revising language with respect to participation by women, minorities, and socially and economically disadvantaged persons; amending s. 341.381, F.S.; providing for applicability; amending s. 341.383, F.S.; revising language relating to local government authority to assess fees; amending s. 341.385, F.S.; revising language with respect to award of the franchise; amending s. 341.386, F.S.; conforming to the act; amending s. 341.031, F.S.; providing definitions; amending s. 341.041, F.S.; revising language with respect to the transit responsibilities of the department; amending s. 341.051, F.S.; revising language with respect to the funding participation of the department of public transit programs and projects; amending s. 341.052, F.S.; revising language with respect to block grant funds; amending s. 339.08, F.S.; restricting use of moneys in the State Transportation Trust Fund; amending s. 341.302, F.S.; providing for development of a rail system plan; providing for inclusion of certain elements of the plan; amending s. 341.3025, F.S.; prescribing rulemaking authority of entities that own or operate certain public rail systems; amending s. 341.303, F.S.; providing for funding of rail systems; reenacting s. 343.53(2), F.S., relating to the Tri-County Commuter Rail Authority; amending s. 343.54, F.S.; requiring plans for expansion of service of the Tri-County Commuter Rail Authority to be consistent with local comprehensive plans; reenacting s. 343.63(2), F.S., relating to the Central Florida Commuter Rail Authority; amending s. 343.64, F.S.; prescribing powers of the Central Florida Commuter Rail Authority with respect to feeder transit services and purchase of insurance; requiring the authority to adopt a plan of development; amending s. 343.73, F.S.; providing for membership of the governing board of the Tampa Bay Commuter Rail Authority; amending s. 343.74, F.S.; relating to the powers and duties of the Tampa Bay Commuter Rail Authority; providing the authority with power to purchase insurance; amending s. 339.135, F.S.; redefining the term "district work program"; directing the Florida Transportation Commission to conduct a statewide public hearing on the tentative work program; revising the procedure with respect to such program; revising language with respect to work programs of the department; amending s. 218.32, F.S.; revising language with respect to financial reporting of the department; amending s. 335.074, F.S.; revising language with respect to safety inspection of bridges; repealing s. 335.04(1)(b)5., F.S., relating to an annual report on the functional classification of roads; amending s. 334.046, F.S.; revising language with respect to department program objectives; repealing s. 339.136, F.S., relating to the Improved Tentative Work Program; creating s. 337.2723, F.S.; providing for the acquisition of property interests for transportation purposes; amending s. 337.271, F.S.; revising language with respect to negotiations for acquisitions; repealing s. 337.241, F.S., relating to preparation and recording of maps of reservation for transportation corridors and facilities; amending s. 348.68, F.S.; relating to consultation with Hillsborough County City-County Planning Commission; amending s. 337.273, F.S.; revising language with respect to transportation corridors; creating s. 337.107, F.S.; providing for contracts for right-of-way services; amending s. 337.25, F.S.; revising language with respect to acquisition, lease, and disposal of real and personal property; amending s. 337.274, F.S.; allowing the department to enter land to perform archaeological assessments; amending s. 337.276, F.S.; revising language with respect to advanced acquisition of right-of-way; amending s. 206.46, F.S.; revising language with respect to the State Transportation Trust Fund; amending s. 215.605, F.S.; providing a cross reference; authorizing funds not needed for debt service on state bonds for right-of-way acquisition or bridge construction to be transferred to the State Transportation Trust Fund; amending s. 255.565, F.S.; revising language with respect to the Asbestos Oversight Program Team; amending s. 337.106,

F.S.; revising language with respect to professional service providers; amending s. 337.11, F.S.; revising language with respect to bids; amending s. 337.18, F.S.; revising language with respect to surety bonds; amending s. 337.175, F.S.; revising language with respect to retainage; amending s. 337.185, F.S.; providing for certain claims before the State Arbitration Board; amending s. 337.221, F.S.; revising language with respect to the claims settlement process; creating s. 337.108, F.S.; providing for indemnification with respect to hazardous materials and pollutants; amending s. 337.015, F.S.; directing the department to make payments for road and bridge construction at certain intervals; amending s. 337.17, F.S.; providing for bid guaranty payable to the department; amending s. 287.042, F.S.; revising language with respect to the powers and duties of the Division of Purchasing; amending s. 338.2275, F.S.; revising approved use of funds for turnpike projects; extending the Branan/Chaffee Road Facility; excluding a portion of the Western Beltway; authorizing use of funds for the Central Connector; amending s. 338.223, F.S.; revising language with respect to proposed turnpike projects; amending s. 337.26, F.S.; revising language with respect to instruments of sale, lease, or conveyance; amending s. 337.27, F.S.; revising language with respect to the exercise of the power of eminent domain by the department and noncharter counties; amending s. 316.1001, F.S.; revising language with respect to the payment of tolls on toll facilities and penalties for noncompliance; amending s. 320.03, F.S.; providing a cross reference; amending s. 316.660, F.S.; revising language with respect to fines for citations; amending s. 316.2952, F.S.; authorizing the use of electronic toll payment devices; amending s. 318.14, F.S.; revising language with respect to non-criminal traffic infractions; amending s. 318.18, F.S.; revising language with respect to civil penalties; creating s. 335.045, F.S.; providing for the applicability of the Florida Transportation Code; amending s. 348.60, F.S.; revising language with respect to lease-purchase agreements; authorizing the Orlando-Orange County Expressway Authority to construct a portion of the Western Beltway; authorizing the Orlando-Orange County Expressway Authority to construct certain improvements and facilities incidental to the expressway system; amending s. 348.966, F.S.; providing definitions; amending s. 348.968, F.S.; revising language with respect to the purposes and powers of the Santa Rosa Bay Bridge Authority; amending s. 348.969, F.S.; revising language with respect to bonds; amending s. 348.97, F.S.; revising language with respect to lease purchase; amending s. 348.971, F.S.; providing for the appointment of the department as agent of the authority; amending s. 348.973, F.S.; providing for cooperation; amending s. 348.974, F.S., relating to the covenant of the state; creating s. 348.9751, F.S.; providing remedies and pledges enforceable for bondholders; creating s. 348.9761, F.S.; providing for exemption from taxation; creating s. 348.9771, F.S.; providing eligibility for investments and security; creating s. 348.9781, F.S.; providing for applicability; amending s. 348.0012, F.S.; providing for the application of the Florida Expressway Authority Act; amending s. 348.0004, F.S.; prohibiting expressway authorities from undertaking certain construction; amending s. 338.251, F.S.; revising language with respect to the Toll Facilities Revolving Trust Fund; amending s. 338.250, F.S.; revising language with respect to Central Florida Beltway mitigation; amending s. 20.23, F.S.; revising language with respect to the Department of Transportation; amending s. 334.065, F.S.; revising language with respect to the Center for Urban Transportation Research; amending s. 212.69, F.S.; revising language with respect to certain funds in the the Gas Tax Collection Trust Fund; creating an oversight committee and providing for powers and duties thereof; transferring the Clean Florida Commission from the Department of Transportation to the Department of Environmental Regulation; amending s. 403.4131, F.S.; conforming to the act; amending s. 334.044, F.S.; providing an additional duty of the Department of Transportation; repealing s. 321.001, F.S., relating to the power of the Governor to effectuate the purposes of the National Safety Act of 1966; amending s. 163.03, F.S.; eliminating a responsibility of the Department of Community Affairs with respect to highway safety grant programs; amending s. 110.205, F.S.; revising language with respect to certain positions exempt from the Career Service System; amending s. 335.20, F.S.; revising language with respect to the local government cooperative assistance program; amending s. 59, chapter 90-136, Laws of Florida; revising language with respect to the functional classification of roads; amending s. 337.407, F.S.; revising language with respect to the regulation of signs and lights within rights-of-way; exempting certain transit bus benches from departmental size requirements; amending s. 177.151, F.S.; revising language with respect to the state plane coordinate; providing effective dates.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Reapportionment and Representative Wallace and others—

**HJR 2491**—A joint resolution of apportionment; providing for the apportionment of the House of Representatives and the Senate; adopting the federal decennial census for use in such apportionment; providing for omitted areas; providing for areas with no population specified for inclusion in one district which are entirely surrounded by other districts; providing severability of invalid portions; providing for nomination and election of candidates from representative and senatorial districts; providing an effective date.

—was referred to the Committees on Reapportionment; and Rules and Calendar.

By the Committee on Appropriations and Representatives Saunders and Flag—

**HB 2601**—A bill to be entitled An act making supplemental appropriations; amending appropriations in Fiscal Year 1992-93; providing moneys for the annual period beginning July 1, 1992, and ending June 30, 1993, to pay salaries, and other expenses, capital outlay buildings, and other improvements, and for other specified purposes of the various agencies of state government; providing an effective date.

—was referred to the Committee on Appropriations.

## RETURNING MESSAGES ON SENATE BILLS

*The Honorable Gwen Margolis, President*

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 48 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**SB 48**—A bill to be entitled An act relating to the crime of keeping a place of prostitution; amending s. 796.01, F.S.; revising elements of the offense of keeping a house of ill fame to update obsolete terminology; providing an enhanced penalty for two or more convictions of keeping, setting up, maintaining, or operating a place, structure, building, or conveyance for the purpose of prostitution, assignation, or lewdness; providing an effective date.

**House Amendment 1 (with Title Amendment)**—On page 1, line 25, strike all of said line and insert:

Section 2. Section 796.03, Florida Statutes, is amended to read:

796.03 Procuring person under age of 18 16 for prostitution.—A person who ~~whoever~~ procures for prostitution, or causes to be prostituted, any person who is under the age of 18 16 years ~~commits shall be guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. For the purpose of incorporating the amendment to section 796.03, Florida Statutes, in references thereto, the subdivisions of Florida Statutes set forth below are reenacted to read:

787.01 Kidnapping; kidnapping of child under age 13, aggravating circumstances.—

(3)(a) A person who commits the offense of kidnapping upon a child under the age of 13 and who, in the course of committing the offense, commits one or more of the following:

4. A violation of s. 796.03 or s. 796.04, relating to prostitution, upon the child; or

commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

787.02 False imprisonment; false imprisonment of child under age 13, aggravating circumstances.—

(3)(a) A person who commits the offense of false imprisonment upon a child under the age of 13 and who, in the course of committing the offense, commits any offense enumerated in subparagraphs 1.-5., commits of a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

4. A violation of s. 796.03 or s. 796.04, relating to prostitution, upon the child; or

Section 4. Section 796.06, Florida Statutes, is amended to read:

796.06 Renting space to be used for lewdness, assignation, or prostitution.—

(1) ~~After May 1, 1943, It is shall be~~ unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that such place, structure, trailer, or conveyance will be used for the purpose of lewdness, assignation, or prostitution.

(2) ~~A person who violates Anyone violating~~ this section commits ~~shall be~~.

(a) ~~Guilty of~~ A misdemeanor of the second degree for conviction of a first violation, punishable as provided in s. 775.082 or s. 775.083.

(b) A misdemeanor of the first degree for conviction of a second or subsequent violation, punishable as provided in s. 775.082 or s. 775.083.

Section 5. Section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution, etc.; evidence; penalties; definitions.—

(1) As used in this section:

(a) "Prostitution" means the giving or receiving of the body for sexual activity for hire *but excludes sexual activity between spouses*.

(b) "Lewdness" means any indecent or obscene act.

(c) "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

~~(d) "Prostitution" as used in paragraph (a) shall be construed to exclude sexual activity between a husband and his wife.~~

~~(d)(e)~~ "Sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes.

(2) It is unlawful ~~in the state~~:

(a) To keep, set up, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution.

(b) To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.

(c) To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose.

(d) To direct, take, or transport, or to offer or agree to take or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.

~~(3) It is also unlawful in the state:~~

~~(e)(a)~~ To offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.

~~(f)(b)~~ To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation ~~with himself or herself~~.

~~(g)(e)~~ To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation.

~~(h)(d)~~ To aid, abet, or participate in the doing of any of the acts or things enumerated in ~~this subsection subsections (2) and (3) of this section~~.

~~(i)(e)~~ To purchase the services of any person engaged in prostitution.

~~(3)(4) In the trial of a person any persons charged with a the violation of any of the provisions of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the said charge, testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building, or conveyance, and and of the person or persons who reside in, operate, or frequent the same and testimony concerning the reputation of the defendant is shall be admissible in evidence in support of the charge.~~

~~(4)(5) A any person who violates any provision of this section commits: is~~

~~(a) Guilty of~~ A misdemeanor of the second degree for conviction of a first violation, punishable as provided in s. 775.082 or s. 775.083.

~~(b) A misdemeanor of the first degree for conviction of a second or subsequent violation, punishable as provided in s. 775.082 or s. 775.083, except as provided in s. 796.01.~~

Section 6. For the purpose of incorporating the amendment to section 796.07, Florida Statutes, in references thereto, the subdivisions of Florida Statutes set forth below are reenacted to read:

796.09 Coercion; civil cause of action; evidence; defenses; attorney's fees.—

(2) As used in this section, the term "prostitution" has the same meaning as defined in s. 796.07.

893.138 Local administrative action to abate drug-related or prostitution-related public nuisances and youth and street gang activity.—

(1) Any place or premises that has been used on more than two occasions, within a 6-month period, as the site of the unlawful sale or delivery of controlled substances or as the site of a violation of s. 796.07, or any place or building used by a youth and street gang for the purpose of conducting a pattern of youth and street gang activity may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

Section 7. For the purpose of incorporating the amendments to sections 796.03 and 796.07, Florida Statutes, in references thereto, the subdivisions of Florida Statutes set forth below are reenacted to read:

772.102 Definitions.—As used in this chapter, the term:

(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions:

14. Section 796.01, s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

17. Section 796.01, s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

Section 8. Section 796.08, Florida Statutes, is amended to read:

796.08 Screening for sexually transmissible diseases; providing penalties.—

(1)(a) For the purposes of this section, "sexually transmissible disease" means a bacterial, viral, fungal, or parasitic disease, determined by rule of the department to be sexually transmissible, a threat to the public health and welfare, and a disease for which a legitimate public interest is ~~will be~~ served by providing for regulation and treatment.

(b) In considering which diseases are to be designated as sexually transmissible diseases, the department shall consider such diseases as chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/acute salpingitis, syphilis, and human



immunodeficiency virus infection for designation and shall consider the recommendations and classifications of the Centers for Disease Control and other nationally recognized authorities. Not all diseases that are sexually transmissible need be designated for purposes of this *section statute*.

(2) A ~~any~~ person arrested under s. 796.07 may request screening for a sexually transmissible disease under direction of the Department of Health and Rehabilitative Services and, if infected, shall submit to appropriate treatment and counseling.

(3) A ~~any~~ person convicted of prostitution or procuring another to commit prostitution ~~in violation with himself under the provisions of s. 796.07, must shall be required to~~ undergo screening for a sexually transmissible disease under direction of the Department of Health and Rehabilitative Services and, if infected, ~~shall~~ submit to treatment and counseling ~~prior to as a condition of release from probation, community control, or incarceration. Notwithstanding the provisions of s. 384.29, the results of any test conducted pursuant to this subsection shall be made available, without the necessity of a subpoena or court order, by the Department of Health and Rehabilitative Services to medical personnel, appropriate state agencies, state attorneys, or courts of appropriate jurisdiction to enforce the provisions of this chapter.~~

(4) A ~~any~~ person who commits prostitution ~~when he or she knows or should know that he or she has and who, prior to the commission of such crime, had tested positive for a sexually transmissible disease and knew or had been informed that he had tested positive for a sexually transmissible disease and that he could possibly communicate such disease to another person through sexual activity commits is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.~~

(5) A ~~any~~ person who commits prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus ~~when he or she knows or should know that he or she has and who, prior to the commission of such crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate such disease to another person through sexual activity commits is guilty of a felony misdemeanor of the third first degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084. The A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.~~

(6) A ~~Any person who procures convicted of procuring another to commit prostitution with himself by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus when he or she knows or should know that he or she has and who, prior to the commission of such crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate such disease to another person through sexual activity commits is guilty of a felony misdemeanor of the third first degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084. The person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of procurement.~~

(7)(a) The department or its authorized representatives may examine or cause to be examined any person or inmate who injures an officer as defined in s. 943.10(14), a firefighter, or a paramedic or emergency medical technician acting within the scope of employment. Evidence of injury and a statement by a licensed physician that the nature of the injury is such as to result in the transmission of a *sexually transmissible disease constitutes covered by this act shall constitute* probable cause for issuance of a warrant duly authorized by a court of competent jurisdiction.

(b) The results of any test authorized by this subsection are exempt from the requirements of s. 384.29 solely for the purpose of releasing such test results to the injured employee after a licensed physician documents in the medical records of the injured employee that the information is medically necessary to determine the course of treatment for the injured employee.

(8)(e) A ~~Any~~ person who receives the results of an HIV test pursuant to this *section paragraph* shall maintain the confidentiality of the person who injured the officer, firefighter, paramedic, or emergency medical technician. Anyone who violates this provision commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The

*identities identity* of the person who is the source of the injury and the ~~identity of the~~ injured officer, firefighter, paramedic, or emergency medical technician are confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 9. For the purposes of incorporating the amendment to section 796.08, Florida Statutes, in references thereto, the subdivision of Florida Statutes set forth below is reenacted to read:

381.004 Testing for human immunodeficiency virus.—

(3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

(i) Notwithstanding the provisions of paragraph (a), informed consent is not required:

1. When testing for sexually transmissible diseases is required by state or federal law, or by rule including the following situations:

a. HIV testing of persons convicted of prostitution, or convicted of procuring another to commit prostitution with himself, pursuant to s. 796.08(1)(b);

Section 10. This act shall take effect October 1, 1992, and shall apply to offenses committed on or after that date.

And the title is amended as follows:

On page 1, lines 2-11, strike all of said lines and insert: An act relating to prostitution; amending s. 796.01, F.S.; revising elements of the offense of keeping a house of ill fame to update obsolete terminology; providing an enhanced penalty for two or more convictions of keeping, setting up, maintaining, or operating a place, structure, building, or conveyance for the purpose of prostitution, assignment, or lewdness; amending s. 796.03, F.S.; increasing the age of the victim applicable to the crime of procuring prostitution; reenacting ss. 787.01(3)(a)4. and 787.02(3)(a)4., F.S., relating to kidnapping and false imprisonment, to incorporate said amendment in references thereto; amending s. 796.06, F.S.; increasing penalty for second and subsequent violations of renting space for use of prostitution; amending s. 796.07, F.S.; increasing penalty for second and subsequent violations of prostitution; reenacting ss. 796.09(2) and 893.138(1), F.S., relating to coercion and abatement of public nuisances, to incorporate said amendment in references thereto; reenacting ss. 772.102(1)(a)14. and 895.02(1)(a)17., F.S., relating to criminal activities and racketeering, to incorporate amendments to ss. 796.03 and 796.07, F.S., in references thereto; amending s. 796.08, F.S.; increasing penalty for second or subsequent violations of unlawful transmission of sexually transmissible diseases; reenacting s. 381.004(3)(i)1.a., F.S., relating to HIV testing, to incorporate said amendment in references thereto; providing an effective date.

#### REFERENCE TO COMMITTEE

The President stated that the amendment substantially changed **SB 48** and that pursuant to Rule 1.18 the bill together with the message from the House was referred to the Committee on Appropriations.

#### MOTION

On motion by Senator Gardner, by two-thirds vote **SB 48** together with the message from the House was withdrawn from the Committee on Appropriations.

Senator Grant moved the following amendment to **House Amendment 1** which was adopted:

**Senate Amendment 1 to House Amendment 1**—On page 9, strike all of lines 3-5 and insert: *activity commits is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The person may be convicted and*

On motion by Senator Grant, the Senate concurred in the House amendment as amended and requested the House to concur in the Senate amendment.

**SB 48** passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37      Nays—None



*The Honorable Gwen Margolis, President*

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 500 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for SB 500**—A bill to be entitled An act relating to standards of conduct for public officers and employees; amending s. 112.313, F.S.; providing that a county, municipality, or special district may prohibit appointive county, municipal, or special district officers and employees from lobbying before the county, municipality, or special district for a period of 2 years after they vacate office or terminate employment; prohibiting certain elected local officers from lobbying their agencies for 2 years after they cease to hold office; providing an effective date.

**House Amendment 1 (with Title Amendment)**—On page 1, line 16, strike everything after the enacting clause and insert:

Section 1. Subsection (13) of section 112.313, Florida Statutes, is amended, subsection (14) is renumbered as section (15) and a new subsection (14) is added to said section, to read:

112.313 Standards of conduct for public officers and employees of agencies.—

(13) COUNTY AND MUNICIPAL ORDINANCES REGULATING FORMER OFFICERS OR EMPLOYEES.—The governing body of any county or municipality ~~may be authorized to~~ adopt an ordinance ~~and the governing body of any special district may adopt a resolution providing that an appointed~~ no county, or municipal, or special district officer or a county, municipal, or special district employee ~~may not~~ shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or employee for a period of 2 years following vacation of office or termination of employment, except for the purposes of collective bargaining. Nothing in this section ~~may~~ shall be construed to prohibit such ordinance.

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.—A person who has been elected to any county, municipal, or special district office may not personally represent another person or entity for compensation before the governing body of which he was an officer for a period of 2 years after he vacates that office. The provisions of this subsection shall not apply to elected officials holding office as of the effective date of this act, until after their next election.

Section 2. Subsections (2), (3), and (5) of section 112.3215, Florida Statutes, are amended to read:

112.3215 Executive branch lobbyists; registration and reporting; investigation by commission.—

(2) The Executive Branch Lobby Registration Trust Fund is hereby created within the commission to be used for the purpose of funding any office established to administer the registration of lobbyists lobbying an agency of the executive branch, including the payment of salaries and other expenses. The trust fund is not subject to the service charge to General Revenue provisions of ch. 215. All annual registration fees collected pursuant to this section shall be deposited into such fund. ~~The commission is authorized to make expenditures from the fund for administering the provisions of this section.~~

(3) A person may not lobby an agency until such person has registered as a lobbyist with the commission. Such registration shall be due upon initially being retained to lobby and is renewable on a calendar year basis ~~on January 1 of each year~~ thereafter. The registration shall require the lobbyist to disclose, under oath, the following information:

- (a) His name and business address;
- (b) The name and business address of each principal he represents;
- (c) His area of interest;
- (d) The agencies before which he will appear; and
- (e) The existence of any direct or indirect business association, partnership, or financial relationship with any employee of an agency with which he lobbies, or intends to lobby, as disclosed in the registration.

(4) The annual lobbyist registration fee shall be \$20 for each principal represented.

(5) A lobbyist must also submit to the commission, semiannually, a signed expenditure report summarizing his lobbying expenditures, including meals, entertainment, and gifts for public officers and employees, and the sources from which they came, for the preceding 6 months. ~~The statement of expenditures shall be due on January 15 and July 15 of each year. Lobby expenditures shall not include personal expenses for lodging, meals, travel, salary, and office expenses. A statement shall be filed even if there have been no expenditures during a reporting period. Such expenditure report shall be due on January 1 and July 1 of each year.~~

Section 3. This act shall take effect October 1, 1992, except that the provisions of section 112.3215 (2), (3), and (5), Florida Statutes, as amended in section 2 of this act shall take effect upon becoming law.

And the title is amended as follows:

On page 1, lines 1-14, strike all said lines and insert: A bill to be entitled An act relating to standards of conduct for public officers and employees; amending s. 112.313, F.S.; providing that the governing body of a county, municipality, or special district may prohibit appointive county, municipal, or special district officers and employees from representing another person or entity for compensation before the county or municipality or special district for a period of 2 years after they vacate office or terminate employment; prohibiting certain elected local officers from representing another person or entity for compensation before the county or municipality or special district for 2 years after they vacate office; providing a grandfather clause; amending s. 112.3215, F.S., relating to executive branch lobbyists; specifying the purpose of the Executive Branch Lobby Registration Trust Fund; authorizing specified expenditures from the trust fund; exempting said trust fund from the service charge provisions of ch. 215; providing for renewal of lobbyist registration on a calendar year basis; providing a due date of January 15 and July 15 of each year for the statement of lobbying expenditures; specifying exemptions to reportable lobbying expenditures; requiring a statement be filed whether or not expenditures have been incurred; providing an effective date.

On motion by Senator Girardeau, the Senate concurred in the House amendment.

**CS for SB 500** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38      Nays—None

*The Honorable Gwen Margolis, President*

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 1118 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for SB 1118**—A bill to be entitled An act relating to jurors and grand jurors; amending s. 40.013, F.S.; providing that a person may not be excused from service on a jury solely because of deafness or hearing impairment; providing restrictions on such service; amending s. 90.6063, F.S.; requiring appointment of an interpreter to assist deaf jurors or grand jurors; amending s. 905.17, F.S.; authorizing interpreters to be present at grand jury deliberation or voting; amending s. 905.24, F.S.; prohibiting interpreters from disclosing grand jury proceedings; amending s. 913.03, F.S.; providing that deafness or hearing impairment is not a ground for challenging a juror; providing an effective date.

**House Amendment 1**—On page 2, lines 13-14, strike "However, such jurors may not serve on capital cases."

Senator Bankhead moved that the Senate concur in the House amendment. The motion failed. The Senate refused to concur in the House amendment and the House was requested to recede. The action of the Senate was certified to the House.

#### RETURNING MESSAGES—FINAL ACTION

*The Honorable Gwen Margolis, President*

I am directed to inform the Senate that the House of Representatives has passed CS for SB 40, CS for SB 58, CS for SB 108, CS for SB 154, SB 380, SB 588, CS for SB 592, SB 1158 and SB 1824.

*John B. Phelps, Clerk*

The bills contained in the foregoing message were ordered enrolled.

## ROLL CALLS ON SENATE BILLS

SB 348

## CS for SM 8

Yeas—34

Madam President	Dantzler	Jennings	Souto
Bankhead	Davis	Johnson	Thomas
Beard	Diaz-Balart	Kirkpatrick	Thurman
Bruner	Dudley	Kiser	Walker
Burt	Forman	Kurth	Weinstein
Casas	Girardeau	Langley	Wexler
Childers	Grant	Malchon	Yancey
Crenshaw	Grizzle	Myers	
Crotty	Jenne	Plummer	

Nays—None

## SB 48

Yeas—37

Madam President	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Myers	
Dantzler	Jenne	Plummer	
Davis	Jennings	Scott	

Nays—None

## SJR 152

Yeas—31

Madam President	Dantzler	Grizzle	Scott
Bankhead	Davis	Johnson	Souto
Beard	Diaz-Balart	Kirkpatrick	Thomas
Bruner	Dudley	Kurth	Thurman
Burt	Forman	Langley	Walker
Casas	Gardner	Malchon	Weinstock
Childers	Girardeau	McKay	Yancey
Crenshaw	Grant	Myers	

Nays—None

## CS for SB 262—Motion to Reconsider

Yeas—18

Bankhead	Davis	Kirkpatrick	Thomas
Bruner	Gardner	Langley	Walker
Burt	Girardeau	McKay	Yancey
Casas	Gordon	Plummer	
Childers	Grizzle	Scott	

Nays—16

Madam President	Diaz-Balart	Jenne	Malchon
Beard	Dudley	Jennings	Myers
Crotty	Forman	Johnson	Souto
Dantzler	Grant	Kiser	Thurman

## CS for SR 286

Yeas—36

Madam President	Dantzler	Jenne	Myers
Bankhead	Davis	Jennings	Plummer
Beard	Diaz-Balart	Johnson	Scott
Bruner	Dudley	Kirkpatrick	Souto
Burt	Forman	Kiser	Thomas
Casas	Gardner	Kurth	Thurman
Childers	Girardeau	Langley	Walker
Crenshaw	Grant	Malchon	Weinstock
Crotty	Grizzle	McKay	Yancey

Nays—None

Vote after roll call:

Yea—Wexler

Yeas—33

Bankhead	Forman	Kurth	Thurman
Beard	Gardner	Langley	Walker
Bruner	Girardeau	Malchon	Weinstein
Burt	Grant	McKay	Weinstock
Casas	Jenne	Myers	Wexler
Childers	Jennings	Plummer	Yancey
Dantzler	Johnson	Scott	
Diaz-Balart	Kirkpatrick	Souto	
Dudley	Kiser	Thomas	

Nays—None

Vote after roll call:

Yea—Davis

## CS for SB 378

Yeas—33

Madam President	Davis	Johnson	Scott
Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thurman
Bruner	Forman	Kurth	Walker
Burt	Gardner	Langley	Weinstein
Casas	Grant	Malchon	Yancey
Childers	Grizzle	McKay	
Crotty	Jenne	Myers	
Dantzler	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Girardeau

## CS for SB 500

Yeas—38

Madam President	Diaz-Balart	Johnson	Souto
Bankhead	Dudley	Kirkpatrick	Thomas
Beard	Forman	Kiser	Thurman
Bruner	Gardner	Kurth	Walker
Burt	Girardeau	Langley	Weinstein
Casas	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jenne	Plummer	
Davis	Jennings	Scott	

Nays—None

Vote after roll call:

Yea—Childers

## CS for SB 582

Yeas—39

Madam President	Davis	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jenne	Plummer	

Nays—None

## CS for SB 610

Yeas—33

Bankhead	Davis	Kirkpatrick	Thurman
Beard	Diaz-Balart	Kurth	Walker
Bruner	Dudley	Langley	Weinstein
Burt	Forman	Malchon	Weinstock
Casas	Girardeau	McKay	Wexler
Childers	Grant	Myers	Yancey
Crenshaw	Grizzle	Plummer	
Crotty	Jenne	Souto	
Dantzler	Johnson	Thomas	

Nays—None

## CS for SB 776

Yeas—35

Madam President	Davis	Johnson	Scott
Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thurman
Bruner	Forman	Kurth	Walker
Burt	Gardner	Langley	Weinstein
Casas	Girardeau	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Childers

## SJR 922

Yeas—35

Bankhead	Davis	Jenne	Myers
Beard	Diaz-Balart	Jennings	Souto
Bruner	Dudley	Johnson	Thurman
Burt	Forman	Kirkpatrick	Walker
Casas	Gardner	Kiser	Weinstein
Childers	Girardeau	Kurth	Weinstock
Crenshaw	Gordon	Langley	Wexler
Crotty	Grant	Malchon	Yancey
Dantzler	Grizzle	McKay	

Nays—None

## SB 938

Yeas—33

Madam President	Forman	Kiser	Thurman
Beard	Gardner	Kurth	Walker
Bruner	Girardeau	Langley	Weinstein
Casas	Grant	Malchon	Weinstock
Childers	Grizzle	McKay	Wexler
Crotty	Jenne	Myers	Yancey
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	
Diaz-Balart	Kirkpatrick	Thomas	

Nays—1

Dudley

Vote after roll call:

Yea—Souto

Nay to Yea—Dudley

## SB 972

Yeas—34

Bankhead	Burt	Crenshaw	Davis
Beard	Casas	Crotty	Diaz-Balart
Bruner	Childers	Dantzler	Dudley

Forman	Johnson	Plummer	Weinstein
Gardner	Kurth	Scott	Weinstock
Girardeau	Langley	Souto	Wexler
Grant	Malchon	Thomas	Yancey
Grizzle	McKay	Thurman	
Jenne	Myers	Walker	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

## SB 972—After Reconsideration

Yeas—30

Madam President	Diaz-Balart	Jennings	Scott
Bankhead	Dudley	Johnson	Thurman
Beard	Forman	Kiser	Walker
Bruner	Gardner	Kurth	Weinstein
Burt	Girardeau	Langley	Weinstock
Casas	Grant	McKay	Wexler
Childers	Grizzle	Myers	
Dantzler	Jenne	Plummer	

Nays—None

Vote after roll call:

Yea—Davis, Kirkpatrick

## SB 1008

Yeas—38

Madam President	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jenne	Plummer	
Davis	Jennings	Scott	

Nays—None

## Abstention from Voting

I did not vote on SB 1008 nor the amendments to said bill.

I am an employee of CSX Transportation Company and may have a conflict of interest. This bill or the amendments may provide a benefit to my employer.

*W. G. (Bill) Bankhead, 9th District*

## CS for SB 1064

Yeas—36

Madam President	Davis	Jenne	Plummer
Bankhead	Diaz-Balart	Jennings	Souto
Beard	Dudley	Johnson	Thomas
Bruner	Forman	Kirkpatrick	Thurman
Casas	Gardner	Kiser	Walker
Childers	Girardeau	Kurth	Weinstein
Crenshaw	Gordon	Langley	Weinstock
Crotty	Grant	Malchon	Wexler
Dantzler	Grizzle	Myers	Yancey

Nays—None

Vote after roll call:

Nay—McKay

## CS for SB 1068

Yeas—35

Madam President	Dantzler	Jenne	Plummer
Bankhead	Davis	Jennings	Scott
Beard	Diaz-Balart	Johnson	Souto
Bruner	Dudley	Kirkpatrick	Thomas
Burt	Forman	Kurth	Thurman
Casas	Gardner	Langley	Walker
Childers	Gordon	Malchon	Wexler
Crenshaw	Grant	McKay	Yancey
Crotty	Grizzle	Myers	

Nays—None

Vote after roll call:

Yea—Weinstock

Yea to Nay—Bruner

## SB 1278

Yeas—37

Madam President	Davis	Johnson	Thomas
Bankhead	Diaz-Balart	Kirkpatrick	Thurman
Beard	Dudley	Kurth	Walker
Bruner	Forman	Langley	Weinstein
Burt	Gardner	Malchon	Weinstock
Casas	Girardeau	McKay	Wexler
Childers	Grant	Myers	Yancey
Crenshaw	Grizzle	Plummer	
Crotty	Jenne	Scott	
Dantzler	Jennings	Souto	

Nays—None

## CS for SB 1524

Yeas—35

Madam President	Davis	Johnson	Souto
Beard	Diaz-Balart	Kirkpatrick	Thomas
Bruner	Dudley	Kiser	Thurman
Burt	Forman	Kurth	Walker
Casas	Gardner	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crenshaw	Grizzle	Myers	Wexler
Crotty	Jenne	Plummer	Yancey
Dantzler	Jennings	Scott	

Nays—None

Vote after roll call:

Yea—Bankhead, Langley

## SB 1644

Yeas—35

Madam President	Dudley	Johnson	Scott
Beard	Forman	Kirkpatrick	Souto
Bruner	Gardner	Kiser	Thomas
Burt	Girardeau	Kurth	Thurman
Casas	Gordon	Langley	Walker
Crenshaw	Grant	Malchon	Weinstein
Crotty	Grizzle	McKay	Weinstock
Davis	Jenne	Myers	Wexler
Diaz-Balart	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Childers

## SB 1674

Yeas—35

Bankhead	Diaz-Balart	Jennings	Plummer
Beard	Dudley	Johnson	Souto
Bruner	Forman	Kirkpatrick	Thomas
Burt	Gardner	Kiser	Thurman
Casas	Girardeau	Kurth	Walker
Childers	Gordon	Langley	Weinstein
Crenshaw	Grant	Malchon	Wexler
Crotty	Grizzle	McKay	Yancey
Davis	Jenne	Myers	

Nays—2

Dantzler

Weinstock

## SCR 1826

Yeas—38

Madam President	Davis	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Myers	
Dantzler	Jenne	Plummer	

Nays—None

## SB 1920

Yeas—34

Bankhead	Davis	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Bruner	Gardner	Kurth	Thurman
Burt	Girardeau	Langley	Walker
Casas	Grant	Malchon	Weinstock
Childers	Grizzle	McKay	Wexler
Crenshaw	Jenne	Myers	Yancey
Crotty	Jennings	Plummer	
Dantzler	Johnson	Scott	

Nays—None

## SB 1922

Yeas—35

Bankhead	Davis	Jennings	Scott
Beard	Diaz-Balart	Johnson	Souto
Bruner	Dudley	Kirkpatrick	Thomas
Burt	Forman	Kiser	Thurman
Casas	Gardner	Kurth	Walker
Childers	Girardeau	Langley	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jenne	Plummer	

Nays—None

## SJR 2066

Yeas—15

Madam President	Diaz-Balart	Kirkpatrick	Weinstein
Casas	Forman	Kurth	Weinstock
Dantzler	Gordon	Malchon	Yancey
Davis	Jenne	Thurman	

Nays—17

Bankhead	Dudley	Kiser	Souto
Beard	Grant	Langley	Walker
Bruner	Grizzle	McKay	
Burt	Jennings	Myers	
Crotty	Johnson	Scott	

Vote after roll call:

Yea to Nay—Diaz-Balart

**CS for SB 2108**

Yeas—34

Bankhead	Davis	Jennings	Souto
Beard	Diaz-Balart	Johnson	Thurman
Bruner	Dudley	Kirkpatrick	Walker
Burt	Forman	Kiser	Weinstein
Casas	Gardner	Langley	Weinstock
Childers	Girardeau	Malchon	Wexler
Crenshaw	Gordon	McKay	Yancey
Crotty	Grant	Myers	
Dantzler	Grizzle	Plummer	

Nays—None

Vote after roll call:

Yea—Jenne

**CS for SB 2114**

Yeas—34

Madam President	Dantzler	Johnson	Scott
Bankhead	Davis	Kirkpatrick	Thomas
Beard	Diaz-Balart	Kiser	Thurman
Bruner	Forman	Kurth	Weinstein
Burt	Gardner	Langley	Weinstock
Casas	Grant	Malchon	Wexler
Childers	Grizzle	McKay	Yancey
Crenshaw	Jenne	Myers	
Crotty	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Souto

**CS for SB 2334**

Yeas—32

Madam President	Dantzler	Jenne	Plummer
Bankhead	Diaz-Balart	Jennings	Scott
Beard	Dudley	Johnson	Souto
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crotty	Grizzle	Myers	Yancey

Nays—1

Langley

Vote after roll call:

Yea—Davis

**CS for SB 2390**

Yeas—35

Madam President	Dantzler	Jenne	Plummer
Bankhead	Davis	Jennings	Scott
Beard	Diaz-Balart	Johnson	Thomas
Bruner	Dudley	Kirkpatrick	Thurman
Burt	Forman	Kiser	Walker
Casas	Gardner	Kurth	Weinstock
Childers	Gordon	Langley	Wexler
Crenshaw	Grant	McKay	Yancey
Crotty	Grizzle	Myers	

Nays—None

Vote after roll call:

Yea—Souto

**CS for SB 2390—After Reconsideration**

Yeas—37

Madam President	Diaz-Balart	Kirkpatrick	Thomas
Bankhead	Dudley	Kiser	Thurman
Beard	Forman	Kurth	Walker
Bruner	Gardner	Langley	Weinstein
Burt	Girardeau	Malchon	Weinstock
Casas	Gordon	McKay	Wexler
Childers	Grant	Myers	Yancey
Crenshaw	Grizzle	Plummer	
Dantzler	Jenne	Scott	
Davis	Jennings	Souto	

Nays—None

Vote after roll call:

Yea—Crotty

**SM 2464**

Yeas—33

Bankhead	Dudley	Kirkpatrick	Thomas
Beard	Forman	Kiser	Thurman
Bruner	Gardner	Kurth	Walker
Burt	Girardeau	Langley	Weinstock
Casas	Grant	Malchon	Wexler
Childers	Grizzle	Myers	Yancey
Crotty	Jenne	Plummer	
Dantzler	Jennings	Scott	
Diaz-Balart	Johnson	Souto	

Nays—None

All Senators voting were recorded as co-sponsors of **SM 2464**.**ROLL CALLS ON HOUSE BILLS****HB 115**

Yeas—36

Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Burt	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Grant	Malchon	Weinstein
Crotty	Grizzle	McKay	Weinstock
Dantzler	Jenne	Myers	Wexler
Davis	Jennings	Plummer	Yancey

Nays—None

**HB 455**

Yeas—35

Madam President	Davis	Jenne	Myers
Bankhead	Diaz-Balart	Jennings	Plummer
Beard	Dudley	Johnson	Scott
Bruner	Forman	Kirkpatrick	Souto
Burt	Gardner	Kiser	Thurman
Casas	Girardeau	Kurth	Walker
Crenshaw	Gordon	Langley	Weinstock
Crotty	Grant	Malchon	Wexler
Dantzler	Grizzle	McKay	

Nays—None

Vote after roll call:

Yea—Childers

## CS for CS for HB 839

Yeas—34

Madam President	Dantzler	Jennings
Bankhead	Davis	Johnson
Beard	Diaz-Balart	Kirkpatrick
Bruner	Dudley	Kurth
Burt	Forman	Langley
Casas	Gardner	McKay
Childers	Girardeau	Myers
Crenshaw	Grant	Plummer
Crotty	Grizzle	Scott

Nays—None

## HB 881

Yeas—39

Madam President	Davis	Jennings
Bankhead	Diaz-Balart	Johnson
Beard	Dudley	Kirkpatrick
Bruner	Forman	Kiser
Burt	Gardner	Kurth
Casas	Girardeau	Langley
Childers	Gordon	Malchon
Crenshaw	Grant	McKay
Crotty	Grizzle	Myers
Dantzler	Jenne	Plummer

Nays—None

## HB 1055

Yeas—37

Madam President	Davis	Johnson
Bankhead	Diaz-Balart	Kirkpatrick
Beard	Forman	Kiser
Bruner	Gardner	Kurth
Burt	Girardeau	Langley
Casas	Gordon	Malchon
Childers	Grant	Myers
Crenshaw	Grizzle	Plummer
Crotty	Jenne	Scott
Dantzler	Jennings	Souto

Nays—None

## CS for HB 1415

Yeas—33

Beard	Diaz-Balart	Kirkpatrick	Thurman
Bruner	Forman	Kiser	Walker
Burt	Gardner	Kurth	Weinstein
Casas	Girardeau	Langley	Weinstock
Childers	Grant	Malchon	Wexler
Crenshaw	Grizzle	Myers	Yancey
Crotty	Jenne	Scott	
Dantzler	Jennings	Souto	
Davis	Johnson	Thomas	

Nays—None

## HM 2113

Yeas—33

Bankhead	Forman	Kiser	Thurman
Beard	Gardner	Kurth	Walker
Bruner	Girardeau	Langley	Weinstein
Burt	Grant	Malchon	Weinstock
Casas	Grizzle	Myers	Wexler
Childers	Jenne	Plummer	Yancey
Crotty	Jennings	Scott	
Dantzler	Johnson	Souto	
Diaz-Balart	Kirkpatrick	Thomas	

Nays—None

## HB 2165

Yeas—36

Madam President	Davis	Jennings	Scott
Beard	Diaz-Balart	Johnson	Souto
Bruner	Dudley	Kirkpatrick	Thomas
Burt	Forman	Kiser	Thurman
Casas	Gardner	Kurth	Walker
Childers	Girardeau	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Myers	Wexler
Dantzler	Jenne	Plummer	Yancey

Nays—None

## HB 2269

Yeas—34

Madam President	Davis	Johnson	Thomas
Beard	Diaz-Balart	Kirkpatrick	Thurman
Bruner	Dudley	Kurth	Walker
Burt	Forman	Malchon	Weinstein
Casas	Gardner	McKay	Weinstock
Childers	Girardeau	Myers	Wexler
Crenshaw	Grant	Plummer	Yancey
Crotty	Grizzle	Scott	
Dantzler	Jennings	Souto	

Nays—None

## CS for HB 2439

Yeas—35

Madam President	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Casas	Gardner	Kurth	Walker
Childers	Girardeau	Langley	Weinstein
Crenshaw	Grant	Malchon	Weinstock
Crotty	Grizzle	McKay	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Gordon

## Abstention from Voting

I did not vote on CS for HB 2439 nor the amendments to said bill.

I am an employee of CSX Transportation Company and may have a conflict of interest. This bill or the amendments may provide a benefit to my employer.

*W. G. (Bill) Bankhead, 9th District*

## CORRECTION AND APPROVAL OF JOURNAL

The Journal of March 5 was corrected and approved.

## CO-SPONSORS

Senators Grant, Kirkpatrick, Yancey—SB 706; Senator Kiser—SJR 766; Senator Crenshaw—SB 1362

## RECESS

On motion by Senator Thomas, the Senate recessed at 5:05 p.m. to reconvene at 9:00 a.m., Tuesday, March 10.